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Human Rights Council
Twenty-sixth session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by Khiam Rehabilitation Center for Victims of Torture, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[26 May 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.14-04001

1404001

Please recycle

Observatory Report about Dismissals in Bahrain, May 2014

A Complaint was filed by a number of Workers' delegates at the 100th Session (June 2011) of the international Labour Conference against the Government of Bahrain concerning the non-observance by Bahrain of the Discrimination (Employment and Occupation)Cnvention,1958 (No.111). The Complaint alleges that following the events of February2011 in Bahrain, suspensions and various forms of sanctions, including dismissals, were imposed on over 2000 workers from both the public and the private sectors, including trade unionist, union members and leaders, as a result of peaceful demonstrations demanding economic and social changes and expressing support for on-going democratization and reform. The Complaint alleges that these dismissals took place on grounds such as workers' opinions, belief and trade union affiliation.

Establish a tripartite committee comprised of one member nominated by the Government, one member nominated by the General Federation of Bahrain Trade Unions and one member nominated by Bahrain Employers. The tripartite committee has access to all relevant documents and meets weekly to address, with the assistance of independent legal advice (ILO) if requested by the Government 0r the workers' or employers' representatives, the issue of dismissals and reinstatements referred to in the complaint and provide minutes of its meetings to the International Labour Office. Provide two written progress reports to the Director-General, one in January and the second in February 2012, which would include the current individual employment status of each worker who has been alleged to have been inappropriately dismissed during the relevant period.

In response to a request received by the GFBTU, the Director General decided to send a Mission, headed by Ms Cleopatra Doumbia-Henry, Director of the International Labour Standards', visited the country from the 29 February to 11 March, 2012.

As a consequence of the events of February- March 2011, over 2200 workers were dismissed from the public-private companies and purely private companies. In the public-private companies, 1520 workers were dismissed while over 697 workers from the purely private companies have been dismissed. For GFBTU, 246 civil services were dismissed, while 415 were suspended.

The total number of workers affected on the basis of the above data is over 4200. This number does not take into account of the numbers that were dismissed in other Government institutions which do not fall under the umbrella of the Civil Services Bureau. According to the GFBTU, 65 workers in Government institutions not covered by the Civil Services Bureau were suspended and 145 were dismissed.

At the date of signature of March10,2014 Agreement according to the GFBTU 168 of the 246 civil servants who were dismissed have been reinstated with 78 still suspended and non-civil services government sector 54 of the 65 suspended workers have been reinstated and 96 out of 145 dismissed workers have been reinstated.

Concerning the public-private companies, out of 1520 workers who had been dismissed, all have been reinstated or are in the process of reinstatement. Concerning purely private sector, according to the GFBTU, out of 734 workers dismissed, 193 have been reinstated and the Government has submitted a list of 176 workers who have been re-employed and should be verified by the GFBTU. The Parties note that majority of workers who have not been reinstated were working in small enterprises. Sixty four civil servants remain under criminal referral. The GFBTU insisted that all reinstated civil servants are able to reintegrate the posts occupied by them prior to their dismissal or suspension. Where this is not possible, these workers should be provided with a position of equivalent grade, pay and benefits, including transportation allowance where applicable as well as the possibility to be re-assigned to their former job as soon as it becomes available.

The GFBTU calls on the Government to cause all scheduled suspensions and salary reductions of civil servants, concerning workers in the public-private companies who have not yet been reinstated at the date of this agreement. Any pending cases of non-reinstated will then be submitted to an appropriate tripartite mechanism for review.

Government of Bahrain, the GFBTU and the BCCI undertake to work together to ensure the smooth reintegration of the workers into their workplaces and a return to social peace. The Government also commits to work on the possibility of ratifying the freedom of Association and Protection of Right to Organize Convention, 1958(No.87) and the Right to Organise and Collective Bargaining Convention, 1949(No.98). The national tripartite committee that was put in place to follow- up on the November 2011 decision of the Governing Body continued its work to ensure the full reinstatement of workers.

The Parties welcome the ILO commitment to provide the partners and enterprises concerned with the necessary support through capacity-building for a smooth reintegration of the workers and the support the improvement of workplace relations and social dialogue as well as training on international labour standards. Training and capacity building on international labour standards will also be extended to the Governmental agencies concerned as well as the Judiciary and the Parliament.

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1404003

Please recycle

Religious Freedom violations for Bahrain

Recommendation:

1. An immediate visit of the United Nations Human Rights Council Special Reporter for Freedom of Religion to Bahrain to identify existing obstacles to freedom of religion, examine governmental involvement in human rights and religious freedom violations and recommend solutions to the systematic violations of human rights and religious freedom.
2. To exert international pressure on the Government of Bahrain to adopt international levels to ensure the protection of religious freedoms and provide international permanent monitoring mechanisms for freedom of religion and worship in Bahrain.
3. To exert pressure on the Government of Bahrain to allow international human rights bodies, organizations and defenders to visit Bahrain without restrictions in order to monitor, report and observe human rights violations.
4. To exert effective pressure on the Government of Bahrain to immediately rebuild the 38 demolished Shia mosques in their actual locations within a published timeframe.
5. To ensure the Government of Bahrain abides by the provisions of the Declaration for the Elimination of Intolerance and Discrimination based on Religion or Belief.
6. To immediately adapt the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. The Rabat Plan aims to provide guidance on how to balance between Article 19 of the International Covenant on Civil and Political Rights (ICCPR), which provides for freedom of expression, and Article 20, which prohibits incitement of discrimination, hostility or violence.
7. To immediately apply the Camden Principles on Freedom of Expression and Equality ("The Camden Principles") to guide legislators, policy-makers and the civil society in balancing the rights to freedom of expression and equality in a non- discriminative manner.
8. To integrate Jaafari teachings in Islamic curriculums in Schools or allow Shia Muslims to teach their children the Jaafari school of jurisprudence.
9. To immediately stop the trial of the Olamaa Islamic Council.
10. To exert international pressure on the Government of Bahrain to ensure impartial legislation, law enforcement and judicial and administrative processes are taken to guarantee freedom of worship and religious practices without any discrimination. Religious and sectarian discrimination can lead to frustration, hostility and fanaticism.
11. To ensure equal citizenship to all Bahrainis and equality in dignity and rights for individuals and groups wherever necessary. In this respect, particular attention should be paid to social groups which are socially or economically disadvantaged to ensure equality and fairness to all citizens in respect to laws, privileges and social measures in force, in particular with regard to housing, employment and health, to respect the authenticity of their culture and values, and to facilitate their social and occupational advancement and integration, especially through education.
12. To exert pressure on the authorities to monitor religious sermons and take preventive measures against preachers and religious organizations that incite hatred and violence against some Muslims and non-Muslims.
13. legislate local laws that prohibit the incitement of sectarian hatred practice or motivate sectarian and racial discrimination in accordance with international human rights definitions; however, such laws could only be applied in countries that practice religious neutrality in the areas of political rights and social, economic and cultural rights of all its citizens.
14. Create Space for meaningful political dialogue to achieve the democratic aspirations of all Bahraini's regardless of race, sect, or social background.

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Human Rights Council
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Agenda item 6
Universal periodic review

Joint written statement* submitted by Lawyers for Lawyer, Lawyers Rights Watch Canada, non-governmental organizations in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[26 May 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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1404005

Please recycle

Viet Nam: Failure to Comply with UPR Recommendations

Introduction

1. Lawyers for Lawyers (L4L) and Lawyers' Rights Watch Canada (LRWC) jointly submit this statement on the state of human rights in Viet Nam, especially those regarding the legal profession.

2. Viet Nam underwent the Universal Periodic Review (UPR) by the United Nations Human Rights Council (HRC) on February 5th, 2014.

3. L4L, LRWC and other stakeholders reported in submissions filed with the Office of the High Commissioner of Human Rights that Viet Nam is violating its international human rights obligations including the obligation to protect and ensure freedoms of expression, association and assembly for lawyers and other human rights defenders and is subjecting them to wrongful prosecutions, unfair trials falling far short of international standards of fairness and arbitrary detention. Regarding unfair trials, stakeholders reported that, "[j]udgements were apparently decided beforehand, and trials commonly lasted only a few hours…defence counsel could not sincerely defend prisoners without risking harassments, expulsion from the bar and even imprisonment themselves."[1]

4. Stakeholders further reported the "Viet Nam Bar Federation and the local Bar Associations were not independent noting that if a lawyer criticizes the Communist Party or the Government, the local Bar Association can expel the member on that basis" and that lawyers representing human rights defenders or communities affected by human rights violations or criticizing human rights violations are harassed and disbarred from their bar associations.[2]

5. Canada submitted advance questions to Viet Nam including the following question: "With respect to the rulings by the Working Group on Arbitrary Detention, including on the case of Le Quoc Quan and particularly in the context of Vietnam's membership in the Human Rights Council, what are the government's timelines for addressing these opinions, in particular on whether the government will or will not release those whose detentions were found to be arbitrary by the WGAD?" Norway also asked which steps Viet Nam will take to ensure that the decisions of the Working Group on Arbitrary Detention (WGAD) are implemented.

6. The recent report[3] of the Working Group on the UPR includes recommendations by a number of UN Member States to take into account the opinions of the WGAD.[4]

7. Five examples of well-known Viet Nam lawyers who have been arbitrarily detained, are: Mr. Le Quoc Quan, Mr. Le Cong Dinh[5], Mr. Nguyen Van Dai (also known as blogger Dieu Cay), Mrs. Le Thi Cong Nhan and Mr. Cù Huy Hà Vũ[6]. The latter was released recently, on condition that he goes into exile. He fled to the United States immediately. On 8 May 2014, Nguyen Van Dai was attacked and wounded by a group of six men, when he was in

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[1] Summary prepared by the Office of the High Commissioner for Human Rights, A/HRC/WG.6/18/VNM/3, dated 4 November 2013, paragraph 32.

[2] Ibid. footnote 2, paragraph 34.

[3] Report A/HRC/26/6 GE.14-12910 dated 2 April 2014, to be discussed during the 26th session.

[4] Recommendation 143.115 by Switzerland, 143.116. by New Zealand, 143.117 by Germany and 143.118 by the United States of America, specifically recommending Viet Nam to unconditionally release all political prisoners, such as Dr. Cu Huy Ha Vu, Le Quoc Quan, Dieu Cay and Tran Huynh Duy Thuc

[5] Opinions adopted by the Working Group on Arbitrary Detention at its sixty-fourth session, 27–31 August 2012 No. 27/2012 (Viet Nam), 23 November 2012. A/HRC/WGAD/2012/27.
Mr. Le Cong Dinh's detention (as well as the detention of three bloggers) is the subject of WGAD's Opinion 27/2012: detention arbitrary, category II.

[6] Opinions adopted by the Working Group on Arbitrary Detention at its sixty-first session, 29 August–2 September 2011No. 24/2011 (Viet Nam), A/HRC/WGAD/2011/24, 28 February 2012. Mr. Cù Huy Hà Vũ's detention is the subject of WGAD's Opinion 24/2011: detention arbitrary, category II.

a bar with some colleagues and students. These men are believed to be plainclothes policemen. Viet Nam has not effectively investigated this attack.

Viet Nam does not comply with WGAD opinions

8. A recent example of how Viet Nam has not complied with WGAD opinions is the case of human rights defender Le Quoc Quan. He has been detained since December 2012. On 2 October 2013, he was convicted for charges of tax evasion. He was sentenced to 30 months in prison and a fine of 59,000 USD. L4L and LRWC and a coalition of other international NGOs raised his situation with the Special Rapporteurs of the United Nations and with the WGAD.

9. In an opinion released 12 November 2013, the WGAD determined that the deprivation of liberty of Le Quoc Quan is arbitrary,[7] being in contravention of the fair trial rights and rights to counsel guaranteed by articles 9 and 10 of the Universal Declaration of Human Rights and articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR).[8] and falling within category III. The WGAD further stated their belief "that the profile of Mr. Quan is dominated by his work as a lawyer and as a human rights defender. His current detention might be the result of his peaceful exercise of the rights and freedoms guaranteed under international human rights law". The WGAD requested Viet Nam to ensure that Mr. Le Quoc Quan be immediately released or tried before "an independent and impartial tribunal in proceedings conducted in strict compliance with the provisions of the ICCPR.", and that reparation be made to him for his arbitrary detention.

10. Despite the clear wording of the WGAD Opinion, and Mr. Le Quoc Quan being on a hunger strike for more than two weeks prior to his appeal on 18 February 2014 the Hanoi Appeal Court upheld the initial decision. Thus, Viet Nam explicitly showed its unwillingness to comply with WGAD opinions.

11. Viet Nam has also failed to comply with WGAD opinions in the case of labour activists Ms Do Thi Minh Hanh, Mr. Doan Huy Chuong and Mr. Nguyen Hoang Quoc Hung, who are still imprisoned despite the WGAD request that they should be released. The WGAD concluded that the three labour rights advocates were arbitrarily detained under Category II as having been deprived of liberty solely for exercising protected right to association and to take part in the conduct of public affairs, and under Category III as having been denied rights to legal representation and therefore to fair trials. The WGAD recommended that the three be released and provided with compensation. [9]

Conclusion

12. As a member of the HRC since November 2013 and a state party to the ICCPR, Viet Nam must comply with the ICCPR other international law standards and principles.

13. The WGAD investigated the detention of human rights lawyers by Viet Nam on many occasions recently. In recent years (in 2011, 2012 and in 2013) the WGAD found detentions arbitrary and called for immediate release of the detained human rights lawyers. It is sad to note Viet Nam's history of arbitrarily detaining human rights defenders. And it is equally sad to note Viet Nam's history of not complying with WGAD opinions.

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[7] Opinions adopted by the Working Group on Arbitrary Detention at its sixty-seventh session, 26–30 August 2013, No. 33/2013 (Viet Nam), 12 November 2013, A/HRC/WGAD/2013/.

[8] Viet Nam acceded to the ICCPR 24 September 1982.

[9] Opinions adopted by the Working Group on Arbitrary Detention at its sixty-fifth session, 14–23 November 2012 No. 42/2012 (Viet Nam), 20 February 2013, A/HRC/WGAD/2012/42, paras 27 to 35.

14. Viet Nam continues to arbitrarily detain human rights defenders. Viet Nam does not comply with the opinions of the WGAD, a body of the United Nations. In view of the current UPR-process, and in view of Viet Nam being a member of the HRC, this is unacceptable.

Recommendations

15. We respectfully submit to the HRC the following recommendations.

The HRC should take measures to ensure that:

a. the pledge of Viet Nam to promote universal respect for human rights and fundamental freedoms is achieved, including full compliance with the ICCPR and the United Nations Basic Principles on the Role of Lawyers;
b. Viet Nam fully and immediately complies with all WGAD opinions;
c. Viet Nam provides annual reports to the HRC regarding its improvement in human rights including deliverables, measurable benchmarks, and concrete evidence as inspected and approved by the UN Office of High Commissioner for Human Rights;
d. Viet Nam allows the HRC Special Rapporteurs and Member States' Human Rights Delegations unrestricted access in their work;
e. Viet Nam reforms laws, policy and practice in order to ensure that crimes, harassment and other human rights violations against human rights defenders and lawyers, are effectively investigated and that suspected perpetrators identified by investigation are prosecuted and tried before independent and impartial tribunals;
f. Viet Nam reviews and commutes the sentences of Mr. Nguyen Van Dai, Mr. Le Cong Dinh and Mr. Le Quoc Quan and ensures their immediate release from prison and from house arrest, and re-instates their law practice certificates;
g. Viet Nam reviews the order that Mr. Cù Huy Hà Vũ must go into exile; and
h. Viet Nam re-instates Mr. Huynh Van Dong's and Mrs. Le Thi Cong Nhan's law practice certificate and prevents their further wrongful arrests and harassment.

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[26 May 2014]

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Bahrain Government prevents the right of health

According to the United Nations Special Reporter on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the right to health is an inclusive right to both freedoms and entitlements. Freedoms include the right to control one's health, and entitlements include the right to a system of health protection (i.e. health care and the underlying determinants of health) that provides equality of opportunity for people to enjoy the highest attainable standard of health.

Since 2011, the government of Bahrain (GOB) has violated such rights by attacking protesters who took to the streets to demand political reform. GOB continuous to attack protesters with: tear gas (Approximately, 70 people have died due to toxic gas inhalation and its consequences;10 kids have died due to head trauma due to tear gas canister straight hit to the head) ; bird shot pallets (killing 100), and other weapons. GOB continuous to detain and torture perceived opponents, and targets health professionals, first aiders who treated protesters.

It all started On 16 March 2011, when the government of Bahrain attacked Salmaniya Medical Complex one of the largest hospitals and the only public hospital in the kingdom. The Government of Bahrain sent its own heavily armed and masked security forces inside hospital wards where they beat, tortured, and interrogated wounded protesters and the medical workers in front of everybody. This started the siege of the hospital with light infantry tanks outside the hospital where torturing and beating of any health team members based on their sect /Shia. They were tortured on the grounds of the hospital (1).This was the start of the militarization of the hospital until our present time.

51 Bahraini Medics (Doctors, nurses, pharmacist, paramedics, and workers in Kitchen hospital) were detained and tortured. 2 left the country prior to the arrest. One Emergency nurse specialist was detained and trialled separately then the group for being a photographer and sentenced to 3 years in prison. He was released march 23rd 2014.

20 of the medics were categorized as felonies and sentenced from 5-15 years in prison by the military court and then 9 of them were sentenced by the civil courts from 2 months-5 years. And the other nine were acquitted. The other 28 were categorized as misdemeanours and got acquitted. This resulted in sacking nine medics from the hospital and 8 returned to work in September 2012 and one 14th April 2014.

At the present time, Dr. Ali AL-Ekeri /orthopaedic surgeon; graduate of RCSI is in prison and sentenced to 5 years. Mr. Ebrahim Aldemastani /occupational nurse sentenced to 3 years in prison. Both medics were accused of over throwing the monarchy and public gathering.

The attack continued on the medics in Bahrain. December 2013 Sayed Saeed Al-Alawi / nursing assistance was detained for nine months and then sentenced to 15 years in prison. Accused of being part of a religious soldiers

According to article 14 and The Committee on Economic, Social and Cultural Rights at the United Nation Human Right Council; the states parties have to refrain from denying or limiting equal access for all persons, including prisoners or detainees, minorities, and abstain from enforcing discriminatory practices as a State policy.(2)

Over the past 3years the Government of Bahrain has denied a largely Shia segment of its population these rights, resulting in widespread fear among many who seek medical treatment. Due to the ongoing presence of State security forces inside Salmaniya Hospital; the systematic interrogation of incoming patients and visitors, and the subsequent beating, detention, and prosecution of many Shia who are suspected of having participated in street protests.

A memorandum of understanding was circulated among all governmental and non-governmental hospitals by the National Authority Health Regulatory (NAHR) headed by Dr. Baha Fatiha stating that: Anyone presenting with physical wounds; or burns; or suspected teargas-related injury or any signs of trauma or fractured boned should be reported to the high official and is brought to security forces inside Salmaniya Hospital for further interrogation. It does not stop at that, this also included anyone driving a wounded protester Salmaniya Hospital is suspect, and one such

person was even accused of having caused the injury. Throughout the hospital, there are now 400 newly installed security cameras operated by the Ministry of Interior.[1]

The result of that was integrating injured protesters whom were brought alive to the hospital which ended dead due to prioritizing interrogation to treatment by the security forces such as Mr. Ebrahim Yagob whom was run over by the riot police, got detained and transferred to the hospital because he was complaining of shortness of breath and sever pain in the abdomen while being interrogated. His treatment was further delayed due to arguments among doctors! He collapsed and died due to massive abdominal bleed. (http://www.youtube.com/watch?v=jlftZscfbhQ)

Martyr Ahmed Abdul Ameer (15 years), was severely burned due to burns incident in a warehouse on Saturday (November 30, 2013). The ministry of Interior forces deliberately refused to allow the ambulance to enter the area of Sanabis west of the Bahraini capital Manama to help him, which led to delay in treatment and the family had to transfer him in a blanket and then in a car to get him to the ambulance which was parked far away from the victim. This had lead in serious deterioration in his health. He was short of breath but was interrogated upon his arrival to the hospital. This had lead into his death due to delay in transferring the victim and integrated him while being completely unstable.

On the 29th of April 2014; Mr. Hassan Mahmood was shot by bird pallets shot gun in his shoulder. He was transferred to SMC emergency room hospital then transferred to the Police fort. He needed to stay for observation and clearing prior to going to fort hospital.

There are so many prisoners without any medical treatments. According to family members, families are requested by the Pardon of Jail to bring prisoners and detainees medications. Some families complain that their detainee siblings didn't receive the medication that they have delivered to them.

Prisoners are transferred to the hospital while being insulted and humiliated! They are handcuffed on arrival and on assessment by the doctors. Even if they going to be admitted they will be handcuffed. A recent example is Mr. Mohammed AlDaqaq a sickle cell disease patient is handcuffed while having suckling crisis in both joints of his hands! He has the right for treatment according to Geneva Convention 1948 and according to High Commissioner for Human rights documents/Health and prisoners.
(ohchr.org, 2005)[2]

There is an immediate need to call for suspension of the use of this toxic gas because of its suspected severe health impact on the population. There is an increase rate of spontaneous abortion and miscarriages due to toxic tear gas. According to BCHR reports, 21 cases of miscarriage or spontaneous abortion that occurred between Mar-Nov 2011 were reported. 67% of the cases were due to excessive use of toxic gases, tear gas and other forms, whether as a means of suppressing a protest or attacking a whole area / collective punishments. For further details[3] of cases please see (Rights, December 2011)

In summary:

The Bahraini government has signed different treaties and member of the Human Right Council of Human rights but does not respect the element and the issue of right to health. We call upon the High Commissioner of Human Rights to:

1. Cease the militarization's of the Hospitals
2. End impunity attacks on Health workers and first aiders in Bahrain
3. Dismiss all charges against the 52 medical workers and reinstate their positions in public medical facilities
4. Void the convictions of three medical workers currently imprisoned
5. Immediately suspend the use of toxic tear gas because of its suspected severe health impact on the population
6. Cease excessive use of force against Shia neighborhoods and civilian protesters in violation of the rights of Bahraini citizens to assemble and peacefully protest.

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[2] http://www.ohchr.org/Documents/Publications/training11Add3en.pdf
[3] Bahrain: Miscarriage And Spontaneous Abortion Cases As A Result For The Excessive Use Of Tear Gas And Violence

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Administrative Detention in Israeli jails, an International Crime

The Palestinians administrative detainees in Israeli prisons started a hunger strike. According to official sources, 180 out of 5,243 Palestinian and Arab prisoners in Israeli jails are in administrative detention, including 18 women and 196 children.

Administrative detention is the most egregious violations of human rights, a policy pursued by the Israeli authorities since the first day of the occupation of the West Bank and Gaza Strip based on the state of emergency imposed by the British Mandate in 1945.

Administrative detention is to keep the Palestinian people in detention centers without charge or trial, but the renewal of detention for years in against all international laws, in which the number of detained Palestinians has reached to more than 21,000 cases since the Al-Aqsa Intifada in which women and children as well as doctors are among detainees, just for the reason of protesting continued occupation.

In addition to the policy of administrative detention, since their arrest, they have been subjected to human rights violation in both, the customs and laws, arbitrary arrests, ill-treatment, violations of children's rights, systematic torture, detention and deportation of prisoners of Representatives and re- arrested, and the longest sentences in the world.

All this is happening in the world and remained silent indifference toward the most heinous violation of human rights in modern history. It's requires of all the living forces, human rights and humanity in the world to denounce the crime of administrative detention in Israel and constantly detention of thousands of Palestinians in its jails.

We call on the Human Rights Council at its 26th session, to consider the issue of administrative detention of Palestinians, and we call on the Palestinian Authority after the signing of a number of international conventions to organize a global campaign and make a complaint against Israel's policy on administrative detention which is international crime and against humanity.

We also call on all human rights activist thought the world to raise their voices and raise their protest against this international crime; Israel government should also release all detainees in its jails and private administrator detention centres, unconditionally.

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Please recycle

The Human Rights situation in Bahrain Persisting violations and impunity

The human rights situation in Bahrain is still bad because of the increasing violations against citizens who call for political change and seek to establish a multi democratic society.
Local and international human rights centers recognize that there is a persisting of the violations implemented by the security authorities and the violation of treaties and international conventions after the issuance of the international convention "Bassiouni's report" and Reporters of the human rights council in Geneva.

First: the persisting of outlaw killings and arbitrary executions.
The activists of the human rights defence follow up the increasing cases of outlaw killings or what is called in Bahrain the arbitrary executions without trial and it falls within the violations of the right to live committed by security authorities.
The excessive use of force by officials responsible of law enforcement represents an important factor in death cases and the right to live, which Bassiouni's report referred to as using a power incompatible with the standards of the absolute necessity and proportionality.

The insistence of the authorities to use the shotgun (Lead fission) internationally banned, in dealing with the demonstrators, caused an increase in the incidence of execution without a court.

The reports issued by the local human rights bodies as Bahrain Forum of Human Rights and SALAM Organizations, recorded the execution without trial cases which reached 120 cases, 20 of them lost their lives because of using the banned shotgun bullets in which the latest case was the child Mohamed El Sayed Mohsen (14 years) from Setrah region, who was injured by fission bullets on Wednesday 21 May 2014 and before him the citizen Abdul Aziz Al Abbar who was killed with a shotgun bullet on 23 February 2014 from Al-Diraz region and there was more than 300 people who were injured with the shotgun bullets until 2013.

It should be noted that the continuance of impunity as a an adopted policy in Bahrain is a key factor to the sustainability of violating the right to life and encouraging them, in which the Bahraini authorities are still not serious adoption of a methodology based on real accountability for those involved in cases of death and it was also noticed that the Bahraini judicial authority is decreasing sentences against police men from seven years to six months or even giving them acquittal in some torture cases.

Second: the violation of religious freedom warns of religious persecution.

The religious freedom situation in Bahrain registered a serious setback after the events of Al- Lualua Roundabout in 2011 and based on the monitoring of Bahrain Center of Human Rights and Al- Wefaq Association, and the formal procedures issued by authorities, continued in suppression of religious freedom of the Shiite community members in their beliefs, personalities and religious institutions, and many of the violations in this area have been registered starting with the decision of disintegrating the Scholar Islamic Council which is the highest Shiite body with a judicial sentence issued on 29th of January 2014, and then deporting the Shiite cleric Sheikh Hussein Najati the representative of Mr. Al-Sistani the High religious authority of the Shiites forcibly outside his homeland on 23rd of April 2014. The Interior Ministry issued yesterday a statement in which it disclosed the matter of deportation which is illegal reasons and the security authorities summoned the President of the Council Secular Sheikh Majid Al- Mashaal for criminal investigations due to his participation in the solidarity sit-in which is a violation of the freedom of expression right.

Also the Ministry of Justice and the Islamic Affairs stressed on the religious statements of the Shiite community which advocates the political expression cases, such as preventing the Shiite cleric Mr. Kamel Al- Hashemy of delivering speeches in Ali bin Jamad mosque and filed a lawsuit later against him in the freedom of expression issue.
These measures led the Special Reporters of the freedom of belief to issue a statement that considered the taken procedures against Sheikh Najati by exiling him is a persecution against the Shiite community.

Third: the violations related to persisting torture in detention places.

The security authorities in Bahrain are still adopting torture with various patterns against political detainees during investigations a..d extracting confessions, and Bassiouni's report registered that 5 citizens lost their lives due to torture in prisons without the authority submitting those directly responsible of these incidents to accountability and justice.

In April 2014 (17) cases of torture or cruel treatment were registered.

Bahrain continues to refuse receiving the UN Special Reporters on torture and other cruel, inhumane or insulting treatment Mr. Ekhwan Mandez, to Bahrain to view the files of torture and victims.

Also Bahrain Forum of Human Rights and SALAM Organization of Human Rights noted that the security authorities use torture even with people who are subjected to force disappearance in secret places.

The prohibition of torture is a peremptory norm of international law as a number of international and regional courts and local communities considered the prohibition of cruel, inhumane or insulting treatment a rule of international customary law, and the security authorities in Bahrain violate both rules.

Fourth: violations affecting freedom of expression and peaceful assembly.

the security authorities in Bahrain is still putting tight restrictions on freedom of expression and peaceful assembly, it entirely prevents the demonstration in the Manama, the capital, also prevented the procession of Al- Wefaq association opposition that was decided on Friday 23 May 2014 in addition that the Assembly Law still needs to be amended to comply with international law in the field of freedom of expression and peaceful assembly.

United Nations A/HRC/26/NGO/30

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Human Rights Council
Twenty-sixth session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by Khiam Rehabilitation Center for Victims of Torture, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[26 May 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.14-04018
1404018

Please recycle

Arab Court of Human Rights

Arab organizations are extremely concerned that the entire process of reform of the League of Arab states, including the Arab Court of Human Rights, has been conducted behind closed doors and through opaque procedures that contravene basic principles of inclusive participation and transparency. Despite the several efforts by civil society organizations in advocating and presenting recommendations on the draft Arab statute, none of these recommendations were taken into account in the latest version of the draft statute.

Among the recommendations presented by independent human rights group was to ensure that all individuals within the territory of a State party, or subject to its jurisdiction, can have access to the Arab Court when they claim to be a victim of a violation, by any of the State parties, that falls under the jurisdiction of the Court. Furthermore, the organizations demanded that States do not hinder access to the Court, in particular by providing for the effective protection of victims and other participants in the proceedings and by ensuring that they are not subjected to any form of pressure or reprisals as a result of their participation in proceedings before the court. In addition, all NGOs, and not only accredited NGOs must be able to access the Arab Court and to join proceedings as interested parties or to submit information as amicus curiae or through expert opinions.

Arab organizations strongly condemn the lack of effective consultation with independent human rights organizations and civil society organizations. The undersigned organizations believe that in the absence of such consultation, and the restriction to the input of LAS member states only, the purpose of the court as a human rights protection mechanism remains highly questionable.

We note that the Manama conference that started today cannot be considered as a consultation with civil society organizations if the statute has already been adopted and the location of the Court already decided.

We call upon member states of the League of Arab States to re-discuss the location of the Arab Court for Human Rights, as the organizations believe that Manama cannot be considered a suitable place to host the court due to the ongoing human rights violations as well as the restrictions imposed by the authorities on the relevant stakeholders, including NGOs, and individuals.

Also call upon member states to reject the draft statue in its current form, and refer it back to the expert committee and to ensure effective consultations not only with representatives of the LAS member states but also national and global civil society organizations, members of the bar and judiciary, academic and independent experts and other interested stakeholders.

We note with worry that since the start of the popular uprising of February 2011, the Bahrain authorities have continued to crack down on fundamental human rights such as the right to freedom of expression, assembly, and association. The Bahraini authorities have fail in their promises of implementing the BICI recommendations, including the release all prisoners of conscience, ending torture and arbitrary detention, and bringing officials responsible for human rights violations to justice. Khiam center & Arab NGO's strongly deplore the ongoing human rights violations in Bahrain and stress that the participation of our organizations in the Manama conference can in no way be considered an endorsement to the repressive policy of the Bahraini authorities.

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Please recycle

Class Discrimination in the Execution of Civil Judgments

The judge who executes civil judgments is considered to be a court by himself with his specified jurisdiction in the law, which is to take executive action that secures the execution of the civil judgment and its supervision until full execution. To achieve that he is authorized to place attachments on the accounts and properties of judgment debtors and even to order their imprisonment if necessary in order to guarantee the rights of those concerned. When the law granted the execution judge these sweeping powers, it aimed to secure and protect the interests of the judgment creditors equally without any discrimination. The judge must direct his authority towards this aim and not to misuse it.

Among the most significant examples of the misuse of this authority, is the normal practice in Bahraini execution courts, where the judge does not use his powers and authorities against a certain class of people, namely members of the ruling family in the Kingdom of Bahrain. He refrains from issuing arrest warrants, travel ban orders and attachments for any person who is a member of this family even if his debts were millions of Dinars, and even if he was rich, has money and full bank accounts. All this happens under the excuse of there being a special and exceptional system applicable to the judgment debtors from the ruling family. The only action taken concerning them is to send a letter to the ruling family council stating the necessity of paying the judgment debtor's indebtedness.

In fact, this is not an effective action, and is nothing but a reminder or a caution to the judgment debtor of there being a civil judicial judgment against him, and nothing more. This is a mean to hold the ruling family member immune against court procedures applicable to all member of the society.

Exempting the ruling family members from executive action has caused a great deal of harm and inflicted heavy losses on a large number of judgment creditors in civil lawsuits, where the judgments issued in their favour are nothing but meaningless pieces of paper, impossible to execute, simply because the adversary is a member of the ruling family in Bahrain. This exceptional system has allowed members of the ruling family to become rich and at the same time be immune against any accountability and judicial control.

This is only one aspect of class discrimination which has been legitimized in Bahrain judiciary system, and there are many other aspects that cannot be addressed at present. We found it necessary to raise this issue due to the losses we have suffered as lawyers together with our clients as a result of impossibility of executing the civil judgment that is issued against any member of the ruling family.

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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Joint written statement* submitted by Caritas Internationalis (International Confederation of Catholic Charities), New Humanity, non-governmental organizations in general consultative status, Associazione Comunita Papa Giovanni XXIII, Association Points-Coeur, Company of the Daughters of Charity of St. Vincent de Paul, International Volunteerism Organization for Women, Education and Development - VIDES, Istituto Internazionale Maria Ausiliatrice delle Salesiane di Don Bosco, non-governmental organizations in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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1404027

Please recycle

The relevance of a declaration on the right to International Solidarity in a changing world*

The Associazione Comunità Papa Giovanni XXIII and the co-signing NGOs welcome the report of Ms Virginia Dandan, the Independent Expert on Human Rights and International Solidarity, submitted at the 26th regular session of the Human Rights Council that contains the first draft declaration on the Right of Individuals and Peoples to International Solidarity.

In resolution 2005/55, the Commission on Human Rights, inter alia, reaffirmed that the widening gap between the economically developed and developing countries is unsustainable and that it impedes the full realization of human rights in the international community. Therefore, it is imperative for every nation, in accord with its capacities, to make the maximum possible effort to close this gap. The Resolution further recognized that the "attention paid to the importance of international solidarity as a vital component of the efforts of developing countries towards the realization of the right to development of their peoples and the promotion of the full enjoyment of economic, social and cultural rights by everyone has been insufficient"[1]. Taking into account the urgent need to further develop guidelines, standards, norms and principles with a view to promoting and protecting rights closely interrelated to the fundamental value of solidarity, the Commission therefore decided to appoint an Independent Expert on Human Rights and International Solidarity for a period of three years. The Independent Expert was requested to: 1. study the issue and prepare a draft declaration on the right of peoples to international solidarity; 2. take into account the outcomes of all major United Nations and other global summits and ministerial meetings in the economic and social fields and to seek views and contributions from Governments, United Nations agencies, other relevant international organizations and non-governmental organizations in the discharge of her/his mandate; 3. report annually to the Commission on the progress made in the fulfilment of his/her mandate.

By presenting the draft declaration to this 26th session of the Human Rights Council, Ms Dandan marks a significant achievement, in her mandate, and we are thankful for her outstanding work.

From many years, APG23 and the co-signing NGOs actively have supported the mandate of the Independent Expert on Human Rights and International Solidarity since we are convinced that the recognition of international solidarity as a human right not only is an ideal goal to be achieved for ethical reasons that are rooted in the notion of being a human family, but because such a recognition is an essential necessity for the survival of the world today.

In fact, recognition of the right of individuals and peoples to International Solidarity will change the rules from the zero-sum game-"In order to win, someone else must lose"-to the new perspective "No one wins unless everyone wins."[2].

Furthermore, we believe that the right of individuals and peoples to international solidarity has its legal basis, inter alia, in the preamble and articles 1.3, 55, 56 of the United Nations Charter and in the preamble as well as articles 1, 28 and 29 of the Universal Declaration of Human Rights.

We greatly appreciate the efforts made by Ms Dandan to consult as many stakeholders as possible before and during the process of drafting the declaration. Our coalition made a joint contribution to the draft declaration and we are pleased to note that some suggestions have been reflected in the text.

Regrettably, up to the present time, the debate on International Solidarity at the Human Rights Council has been of a controversial nature with resolutions approved by voting and, unfortunately, with little participation of States and/or

[1] Resolution 2005/55, preamble

[2] Solidarity in the Practice and Discourse of Public International Law, R. St. J. MacDonald, 1996

civil society during the clustered interactive dialogues with the Independent Expert. We hope that the draft declaration will constitute a step ahead to reach a consensus on this important matter.

Today's world has indeed become a global village due to the phenomenon of globalisation that is characterised by increased interconnectivity and interdependency of nations with each other. For the first time in history, the market economy and the capitalistic system of division of labour have acquired global dimension: big factories have transferred productivity and labour beyond their national borders where it is more convenient, a global market has been established based on free trade; transnational organisations, both financial and political, have increasingly acquired more power at the expenses of the Sovereignty of States; through the modern technology, internet and the social networks, communication happens in real time all over the world.

Moreover, there is an increased awareness of the artificiality of the North-South division, a growing concern with the state of the natural environment (and its limited resources), the fact that States no longer are the primary or only actors at the international scene etc.

In this new scenario, it is time to recognize that human rights are a shared responsibility and a common basis of interaction between all members of the international community, States and non-states actors and to create an enabling environment where all human rights, including right to development, can be progressively realized for all[3].

The so called "third generation" of human rights founded on solidarity and fraternity shows that, in a interdependent world, human rights can be realized only with the contribution of all the actors of the international society.

We welcome the fact that the Independent Expert introduces in the draft declaration some paradigm shifts on the basic principles that underlie international human right law such as:

1. A shift away from international assistance and cooperation (cf. penultimate preambular paragraph) applied with conditionalities, and from the North-South /charity approach, towards "solidarity" as a broader concept and an underlying basic principle of international law and relations and solidarity cooperation;
2. A shift away from the notion of development focused only on economic growth to the vision of the Right to Development, taking the social and environmental dimension sufficiently into account;
3. A shift away from a state-centred focus, towards including a broad range of actors (non-state actors, groups, individuals etc.).

Since law should develop as reality develops, these new perspectives included in the draft declaration may lead to a conceptual framework that is more tailored to the world we are living in. They are in line with current concerns within the human rights community, on how to 're-design' the duty-bearer side of human rights law, and how to incorporate newer human rights issues.

Bearing in mind criticisms on the vagueness of the juridical contents of a right to international solidarity, a flaw that according to this criticisms, makes the process of the recognition of this right a rhetoric move, we are particularly pleased for the fact that the Independent Expert clarifies in the text the normative content of the right to international solidarity and explains who are its right holders and duty bearers. (Article 5 to 8 of the draft declaration).

As Ms Dandan said in her address to the Third Committee of the 68th General Assembly on 29 October 2013 in New York, "the preliminary text makes the point that the right of peoples and individuals to international solidarity draws on human rights norms and principles that are already codified in international legal documents and that therefore this right encompasses existing entitlements along with the obligations of States that are well-established in international human rights treaties. Further, it articulates what rights peoples and individuals have, individually and in association with

[3] A/HCR/26/34/Add.1 : Article 4 of the draft declaration on the right of peoples and individuals to international solidarity

others, within their territories and extraterritorially beyond national boundaries, and as provided for in human rights and other applicable international instruments".

Another important aspect reflected in the draft declaration is the intra-generational and intergenerational dimension of Solidarity. We truly believe that the recognition of the right of individuals and peoples to international solidarity will give legal status to the commitments to the well-being of future generations made in numerous international treaties, declarations, and policies.

Moreover, we welcome also the concept of "Preventive Solidarity" being reflected in the draft declaration. The Human Rights Council in Resolution A/HRC/15/13 (OP7) has adopted this concept put forward by Mr Ritzki, the previous Independent Expert, and echoed on several occasions by Ms Dandan.

Preventive solidarity means that interventions are not limited to and implemented when calamities, crises, natural disasters occur, but rather steps are taken by Member States, at national and international level, to address and remove the structural obstacles to the enjoyment of human rights and a fair distribution of benefits in our globalised world. Preventive solidarity aims to remove the root causes of asymmetries and imbalances within and between countries. It is a very important notion that needs, perhaps, to be better articulated in the draft declaration.

Finally, the co-signing NGOs urge that the draft declaration of the Right of Individuals and Peoples to International Solidarity progress speedily towards the final text and renew their active support to the work of the Independent Expert on International Solidarity and Human Rights.

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* International-Lawyers.Org (DPI Associated) NGO(s) without consultative status, also share the views expressed in this statement.

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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Joint written statement* submitted by France Libertés: Fondation Danielle Mitterrand, Women's Human Rights International Association, non-governmental organizations in special consultative status, Mouvement contre le racisme et pour l'amitié entre les peuples, International Educational Development, Inc., non-governmental organizations on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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1404145

Please recycle

The grave violations of asylum-seekers' fundamental right to health: preventing free access of Camp Liberty (Iraq) residents to medical care is a threat on their right to life*

Background

Nearly 3,000 Iranian exile PMOI/MEK members are in Camp Liberty in Iraq. These individuals have during the span of the past three decades gradually entered Iraq through legal means and in agreement with the then Iraqi government, and resided in Camp Ashraf. Following the 2003 war and the occupation of Iraq, Camp Ashraf came under the control and protection of US forces, and the residents were recognized as 'protected persons' under the IVth Geneva Convention. However, from the beginning of 2009, the US government transferred the control of Camp Ashraf and its residents to the Government of Iraq. Subsequently, Iraqi forces imposed a logistical and medical siege on the Camp and attacked the residents on 28-29 July 2009 and 8 April 2011, storming the camp and murdering the unarmed and defenceless camp residents. In these two attacks 49 residents were killed either by direct gun fire or crushed under Iraqi forces' armoured vehicles.

International media reported witnessing Iraqi forces forcefully dragged the wounded out of Baquba Hospital beds near Ashraf and returned them to the camp. In yet another incident on 1 September 2013, Ashraf was stormed by Iraqi forces and 52 residents were massacred and 7 others abducted as hostages. In addition to this, Camp Liberty – where Ashraf residents were gradually transferred to against their will from the beginning of 2012 – came under four missile attacks, leaving many residents killed and injured. In total, from 2009 to this day 20 ground and missile attacks have been recorded against camps Ashraf and Liberty. During the course of these attacks 116 residents have been murdered and 1,375 others injured. This means nearly half of this population has been injured. Most of the attacks were carried out by Iraqi forces and/or forces loyal to the Government of Iraq.

Camp Liberty residents have all been interviewed by the UNHCR regarding the refugee process and have been recognized by the UNHCR as 'people of concern' and as such entitled to be protected under International Law. They are now waiting to be resettled in third countries.

General conditions at Camp Liberty

The asylum-seekers are facing increasing problems and continuous harassments, especially regarding access to medical services and service contractors. Freedom of movement, access to justice and the right to choose one's own lawyer are denied. Income generating activities are not allowed. Visits of independent observers such as NGOs, parliamentarians, diplomats and families are banned. Conditions in the camp are such that the UN Working Group on Arbitrary Detentions (WGAD) in two detailed reports[1] in 2012 described as an illegal detention.

The WGAD concluded that: 'The Working Group considers that there is no legal justification for holding the above-mentioned persons and other individuals in Camp Liberty, and that such detention is not in conformity with the standards and principles of international human rights law'. Furthermore, the WGAD urged the Government of Iraq 'to consider alternatives to the detention of the asylum seekers in Camps Ashraf and Liberty'.

The Government of Iraq has so far shown no intention to lift the illegal restrictions or allow the residents to improve the living conditions in Camp Liberty.

Medical Blockade

Twenty of these residents have to this day lost their lives due to a medical blockade. As stated by experts, if these individuals enjoyed open access to medical care they would not have perished.

There is an Iraqi-controlled first aid centre in Camp Liberty that is responsible for only very simple first aid support and transferring patients to hospitals in Baghdad. Due to the high number of residents having been wounded in several attacks and also years of medical blockade 869 patients have received paperwork from the camp's Iraqi clinic to go to

[1] A/HRC/WGAD/2012/16 and A/HRC/WGAD/2012/32

Baghdad in order to be visited by a medical specialist. This means nearly one third of the camp's population are in a very long waiting list to go to Baghdad!

The result of this current blockade, which is accompanied by prison-like laws, is a bottleneck rationing of 3 to 4 patients being sent to Baghdad on a daily basis. They must pass through a very tight corridor of Iraqi security forces, before being able to receive any medical treatment. Even if this very small number of patients is successful in reaching their medical appointments, all their commuting is controlled by stonewalling Iraqi forces. This includes deliberate delays in patients' leaving the camp that ends in them losing their appointments and in most cases an interpreter is not allowed to leave the camp where their presence for communication between the doctors and patients who do not speak the same language is an inevitable necessity. These obstructions lead to a waste of time and appointments not being met. Even those patients who are able to exit the camp and actually get visited by a medical specialist, in most cases the Iraqi forces accompanying them do not allow the patients purchase medicine according to the doctors' prescriptions.

As of today, 191 surgeries are in line. Of course, the number of patients is actually up to 869 and amongst them are those injured by Iraqi forces attacks in Ashraf, meaning those residents who had their arms and legs shot and broken by Iraqi forces, and are now suffering from a paralyzed limb. If these conditions continue the patients' treatment will last over two years, and this is conditioned on no new patients being added to this list. As a result, these conditions are imposing a slow death to Camp Liberty's patients.

Even patients who have been able to leave Iraq with UNHCR support or the hard efforts of Camp Liberty residents' international supporters have now reached a point of no return due to the pressures and restrictions imposed while they were in Liberty and they can no longer be cured. During the past few months 4 Camp Liberty patients transferred to Albania have lost their lives despite receiving all the possible medical treatments. The latest example was Ms. Leila Kermanshahi who passed away on 13 May 2014 a few weeks after being transferred from Liberty to Albania. This loss was also due to the restrictions imposed in Liberty. Based on the complaints Ms. Kermanshahi had written to UN officials in Iraq when she was alive, she was amongst those individuals that Iraqi forces prevented from purchasing her medicine.

Disabled residents of Camp Liberty

The lives of disabled and paraplegic residents in Camp Liberty are in grave danger due to the blockade. In addition to the medical and drug restrictions, these individuals are very vulnerable in the case of missile barrages and attacks against the camp because they are not able to go to any shelter. When the residents entered Liberty in 2012, where US forces were previously stationed, the Iraqi authorities removed 17,500 pieces of protective concrete walls (known as T-walls) and transferred them outside the camp perimeters. To this day the Government of Iraq is not willing to allow the residents have such T-walls returned and installed at their own expense for the resting area of disabled residents. The Government of Iraq also doesn't permit residents to construct stronger buildings for the disabled residents. On 26 December 2013 the attackers' missiles landed near the stationing area of disabled residents and miraculously they were not hurt.

Agreements

The Memorandum of Understanding (MoU) signed in December 2011 between the Government of Iraq and the United Nations underlined the following points:

1) Camp Liberty shall meet the required humanitarian and human rights standards.

2) The Iraqi Government shall assume management of temporary transit sites and guarantee the living infrastructures, hygiene facilities and medical care.

3) The Iraqi Government shall facilitate and allow the residents, at their own expense, to enter into bilateral contact with contractors for provision of life support and utilities such as water, food, communications, sanitation, and maintenance and rehabilitation equipment.

If the Government of Iraq had been loyal to the MoU signed with the UN and recognized the residents' right to free access to medical care, today the number of ill residents in limbo would have been much smaller and some lives would not have been lost. In an expertise review, if the patients had free access to medical care all cases would be resolved in the span of 3 months.

Conclusion and Recommendations

Deeply concerned by the large number of complaints and the growing number of people losing their lives due to lack of timely access to medical care in Camp Liberty and bearing in mind that Government of Iraq is a signatory to the international covenant on economic and social rights, we:

- call upon the UN Special Representative of the Secretary-General in Iraq and UNAMI to recall Government of Iraq its duties and responsibilities;
- urge Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health to take urgent action on this issue.

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*Association of Humanitarian Lawyers NGO(s) without consultative status, also share the views expressed in this statement.

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Written statement* submitted by Women's International League for Peace and Freedom, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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1404146

Please recycle

Statement on the Report of the Special Rapporteur on Violence against Women to the Human Rights Council on India

The Women's International League for Peace and Freedom welcomes Rashida Manjoo's visit to India and her close collaboration with civil society.

Despite the existence of a solid legislative framework to protect women against violence, this crime continues to be widespread, both in the home and in the public space.

As the report highlights, structural and institutional inequality persisting in India is the major cause of the various forms of violence against women. In particular, the presence of a militarised society constitutes a serious threat to women's safety and empowerment.

Militarism entails a series of policies, practices and cultural values that push forward militaristic values such as rigid hierarchal distributions of power, masculine authority, obedience, the use of violent force, and identification of internal values in opposition to an "enemy other".

It goes beyond mere questions related to the army, but penetrates into every layer of society, influencing gender roles and relationships, even during peacetime, by reinforcing patriarchal values through discourses that subordinate women and highlight gender inequality.

More directly militarism contributes to an increasing insecure environment, especially, but not exclusively, in militarised regions.

The rise in gun culture is a main component of this insecurity that hinders women's right to freedom of movement for fear of being subjected to violence and contributes to a more generalised culture of violence against women. India is currently the largest importer of arms in the world[1] and is constantly increasing defense spending. The standard set by the government is filtering into civilian culture, and is fueling a significant increase in private gun ownership and a culture of violent masculinity.

When we also consider the institutional barriers women face when attempting to access the justice system giving way to impunity, the rise in gun culture in India presents a key challenge for the prevention of violence against women. It has been found that men who use weapons are far more likely to participate in (non-partner) rape, and gang rape. Evidence has demonstrated that owning a gun makes someone more, not less vulnerable to a lethal attack, particularly within the home, the most common site of violence against women. While men are much more likely to perpetrate and fall victim to gun violence, many more women than men are killed, injured and intimidated by firearms in the context of domestic violence. This evidence suggests that the increase of private gun ownership is likely to result in more frequent, and more lethal violence against women.

Besides increasing the likelihood of violence, gun culture creates an atmosphere of impunity and normalised acceptance.

[1] Stockholm International Peace Research Institute (2013). *SIPRI Yearbook 2012: Armaments, Disarmament and International Security*. Published in print and online by Oxford University Press

WILPF would also like to highlight the ongoing problem of weapons trafficking in the Northeastern states. Evidence suggests the trafficking of persons, and patterns of gender based and sexual violence follow the same trafficking paths as small arms along the Burmese border.

The central and state government have adopted militarised responses, armed violence and arms trafficking, which are fueling an increased climate of insecurity and distrust of the national government. We urge engagement with local women's peace and disarmament movements, and the articulation of a clear policy of armed violence reduction in the Northeast. Such an approach must include the repeal of the Armed Forces Special Powers Act of 1958 and a clear process of de-militarisation, and the implementation of the Justice Verma Report's[2] recommendations on the prevention of violence against women in the Northeast, as the Special Rapporteur's report suggests.

Although the state is resistant to the implementation of the Women, Peace and Security agenda, there is a growing national pressure to address the situation of women in armed conflict and the institutions of the state that foster women's insecurity. The Justice Verma Report, although not specifically mentioning UNSCR 1325, addresses core aspects of the Women Peace and Security agenda, including protection (from violence), prosecution (of perpetrators), the deployment of high level-gender experts to conflict zones, gender training for all personnel stationed in conflict areas, and an immediate review of AFSPA.

For more information contact:

María Muñoz Maraver, Human Rights Programme Director, at mmunoz@wilpf.ch

[2] The Justice Verma Committee, headed by former Justice of India, JS Verma, was established after the Delhi gang rape in 2012 to review India's criminal law for sexual crimes.

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Written statement* submitted by Human Rights Now, a non-governmental organization in special consultative status

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Please recycle

Fukushima: the Japanese government to protect people's right to health in accordance with recommendations by the UN Special Rapporteur Anand Grover

1. Background

It has already been three years since the nuclear accident at the Fukushima-Dai-ichi Nuclear Power Station on the 11th of March, 2011[1]. The Special Rapporteur on the right to health Anand Grover visited Japan as his official mission in November 2012 and produced a comprehensive report in May 2013[2]. The report revealed that the Japanese government's policies and efforts are insufficient to protect the affected populations. It clearly stated that 1 mSv/year has to be set as a policy standard for health examination as well as evacuation management.

The report has been welcomed by the civil societies as a strong step towards achieving necessary policy changes. However, it is a grave concern that the government has dismissed most of the recommendations, claiming that they have no medical or scientific basis. As for expanding the scope of the health management survey, it responded "There is not a sufficient scientific basis for the claim that health management is necessary for residents who live in areas where the additional radiation does is 1 mSv/year. Thus the recommendation [...] is not acceptable" (p.4)[3]. The government went on to say, "The necessity of the examination recommended by the Special Rapporteur (to include blood and urine tests) has not been demonstrated scientifically" (p.6)[4]. Those comments have been criticized as being founded on an arbitrary interpretation of limited research sources[5], and based on a desire to justify the government's reluctance.

2. Grover's recommendations and the government's inaction

a) One particularly important recommendation from Anand Grover advised the government to set the radiation exposure threshold to 1mSv/year and base its health-protection policies on this threshold. The Special Rapporteur pointed out the possibility of adverse effect of low-dose radiation exposure on human health especially to the most vulnerable, such as children and pregnant women. He advised the government to "Formulate a national plan on evacuation zones and dose limits of radiation by using current scientific evidence, based on human rights rather than on a risk-benefit analysis, and reduce the radiation dose to less than 1mSv/year" (para 78 (a)). He also advised that "evacuees should be recommended to return only when the radiation dose has been reduced as far as possible and to levels below 1mSv/year."[6]. Regrettably, the government dismisses those recommendations and has not taken into consideration the health implications of low-level radiation exposure. Instead, it has been implementing policies based on the assumption that radiation exposure lower than 100mSv/year is safe.

b) The SR emphasises that "health monitoring should be provided to persons residing in all affected areas with radiation exposure higher than 1mSv/year"(para.77(b))[7]. The government should also avoid "limiting the health check-up for children to thyroid checks and [instead] extend check-ups for all possible health effects, including urine and blood tests"(para.77(e))[8] and "make follow-up and secondary examination for children's thyroid check-up available to all requesting children and parents"(para.77(f))[9]. These recommendations have been ignored. The government rejects urinalysis as there is "no reasonable explanation to compel the residents to undergo examinations of low medical priority"[10]. Only those who have type B or C results[11] are entitled to a secondary examination.

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[1] Human Rights Now is an international human rights NGO based in Tokyo, Japan <http://hrn.or.jp/eng>

[2] A/HRC/23/41/Add.3

[3] A/HRC/23/41/Add.5/Rev.1

[4] Ibid.

[5] The government refers to reports from UNSCEAR (2008) and ICRP statements

[6] A/HRC/23/41/Add.3

[7] A/HRC/23/41/Add.3

[8] Ibid.

[9] Ibid.

[10] A/HRC/23/41/Add.5/Rev.1

[11] The current health check-up uses ultrasound examination and ranks the results into A1, A2, B, and C, where C is the severest, based on the size and the shape of the lump

c) The government also needs to "monitor the health effects of radiation on nuclear plant workers and provide necessary treatment" (para.77(j))[12] and "take all measures to provide an environment that does not exacerbate their vulnerability and provide access to affordable and quality health facilities, goods and services at all times to all workers."[13] However, these recommendations are as yet unimplemented and the health of the workers remains a grave concern especially for temporary workers, who are treated like disposable labour. The SR also pointed out that "many workers employed in the nuclear power industry are poor and some even homeless"[14]. The Ministry of the Environment relaxed bidding restrictions, which resulted in multiple layers of contracts for decontamination projects being awarded to contractors who use unlawful recruitment practices. This resulted in diminished oversight of the government's responsibility to ensure proper medical checkups for workers.[15]

d) In June 2012, the government enacted the Act on Protection and Support for the Victims of Nuclear Power Plant Accidents. After a year of silence, a call for public comments was finally made in autumn 2013. Nonetheless the policy eventually prepared by the Cabinet failed to properly reflect the voices of those affected; it mainly promotes victims returning to their hometowns. The victims' organization asked the government to establish a mechanism for affected people to participate in the decision-making process of the implementation of Act. Such a role was articulated in Grover's recommendation: "to ensure effective community participation, especially participation of vulnerable groups, in all aspects of the decision-making processes", yet there is neither such a mechanism nor any effort from the government to establish one.

3. Current situations

a) Many people, including children and pregnant women, still live in areas highly contaminated by the nuclear accident. This is because the government set the boundary of the evacuation zones based on an exposure level of 20 mSv per year, a threshold 20 times higher than international protection standards. Alarmingly, the government has been un-designating some of the evacuation areas (within a 20km ring), and it is accompanied by termination of monthly compensation from TEPCO. In fact, one region of a city called Tamura in Fukushima prefecture has already been removed from the evacuation area and it is confirmed that the compensation by TEPCO will be terminated at the end of March 2015. The evacuees from this region believed it to be too early for return, yet they were not given a chance to express their worries. Those who return before March 2015 will be given so-called 'early return compensation' of 900,000 yen but removal from evacuate zone doesn't mean residents can go back to the place safely. In the region, the government ended decontamination operations in June 2013[16] and it will no longer continue them due to the supposed 'limited effectiveness' of repeated decontamination[17]. Another serious concern is that the government limited the period in which the evacuees are entitled to have housing support to the end of March 2015[18]. Many evacuees and civil groups have been fighting for the continuation of the programme[19], yet the government has shown no movement towards another extension. This is especially dangerous for evacuees who will have no other choice but to return to their homes and face possible radiation exposure.

b) The Japanese authorities have taken inadequate measures to protect people's right to health. The Special Rapporteur noted that the health management survey conducted by Fukushima prefectural authorities was insufficient and urged the Japanese government to monitor "the impact of radiation on the health of affected persons through holistic and comprehensive screening for a considerable length of time and to make appropriate treatment available to those in need" (para.77(a)). At present, the thyroid examinations are available only to those under 18, and follow-up tests are limited to one every two years. Other than thyroid examinations, the government has not conducted any health

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[12] A/HRC/23/41/Add.3

[13] A/HRC/23/41/Add.3

[14] A/HRC/23/41/Add.3

[15] http://www.reuters.com/article/2013/12/30/us-fukushima-workers-idUSBRE9BT00520131230

[16] http://josen.env.go.jp/area/data/tamura.html

[17] Following up after Decontamination, pg 2 http://www.meti.go.jp/earthquake/nuclear/pdf/140310/140310_01g.pdf

[18] http://www.reconstruction.go.jp/topics/main-cat8/sub-cat8-1/20131011_betten1_houshin.pdf

[19] https://www.evernote.com/shard/s293/sh/24c9e873-5d81-4c6c-93ec-ae1fbe05a098/e7e4a3b0bbc11ba97e5112346ee5a56a/res/9a5a55a8-7cb1-4a55-8096-be359cdd836f/%EF%BC%94%EF%BC%99%E4%BD%8F%E5%AE%85%E7%BD%B2%E5%90%8D%E6%84%8F%E8%A6%8B%E6%9B%B8140425.pdf

monitoring for people living in the affected area (such as blood or urine sampling, dentistry, ophthalmology, etc.) nor kept any record of illness besides thyroid cancer. On the May 19th 2014, at the 15th prefectural oversight committee meeting for the Fukushima health management survey, it was announced that 50 people have been confirmed to have thyroid cancer, an increase of 17 people from February.[20] An additional 40 people were thought to have a malignancy, which makes the total number 90. Despite those worrying results, the government has not shown any signs of reviewing their policy.

4. Recommendations

For a year, the recommendations made by Grover have been disregarded by the Japanese government. The government is responsible for the protection of its citizens' rights to health under the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the Convention on the Rights of the Child.

HRN urges the Japanese government to reform all relevant policies based on SR Grover's recommendations. All policies must be formulated with a victims-based/rights-based approach. They must prioritize protection of the most vulnerable population, with due consideration of the health risks of low level radiation exposure. In particular, great importance should be placed on applying the radiation dose threshold of 1mSv/year in national plans concerning evacuation zones, health policy, and in all measures providing for those affected, including implementation of the Victim Support Act.

[20] http://www.pref.fukushima.lg.jp/uploaded/attachment/65174.pdf

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Human Rights Council
Twenty-sixth session
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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by Human Rights Now, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[26 May 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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1404148

Please recycle

The International community must address discriminatory punishment against women and girls prevailing in the world

1. Background

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) entered into force over thirty years ago. It requires state parties to ensure gender equality and end gender-based discrimination. In particular, Article 2(g) of CEDAW obliges all state parties to repeal all national penal provisions which constitute discrimination against women. Yet many states parties have failed to implement the domestic legislation and enforcement reforms necessary to comply with this obligation. As a result, women continue to face criminal sanctions of both a type and scale not experienced by men. The primary area of concern is prosecutions against women under adultery and fornication laws. Many states also have some space in their legal systems for courts based on custom. These courts worsen the situation of accused women.

Such practices seriously violate women's rights under international law and work as an effective tool to control the lives of women by the society. Human Rights Now (HRN)[1] urges the international community to immediately address this serious violation of women's human rights.

2. Adultery and Fornication Laws

In Afghanistan, rape victims are often charged with zina (sexual intercourse outside of wedlock). "...When women and girls allege rape, they are often not believed or are treated as deserving of blame of committing zina."[2] Some are forced to marry their rapists. Further, women and girls who escape from home have been routinely arrested and punished for "moral crimes" and charged with intention to commit zina, no matter the violence they have been subjected to at home. These sanctions against women continue despite the fact that escaping from home is not itself a crime under Afghan law.[3]

In Congo, local customary authorities often order rape victims to marry their attackers.[4] The law there also punishes women more harshly than men for adultery. Women who commit adultery face sentences ranging from six months to one year. Men who commit adultery, however, receive such a punishment only if the adultery is surrounded by circumstances which make it "abusive".[5] Congo does not define what makes adultery "abusive". As a result, women face jail-time while men do not for the same conduct.[6]

In the Maldives, fornication is criminally punishable by up to 100 lashes and one year of house arrest or exile.[7] Women are convicted at four or five times the rate that men are.[8] Pregnancy alone is sufficient to incriminate women.

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[1] Human Rights Now is an international human rights NGO based in Tokyo, Japan <http://hrn.or.jp/eng>

[2] Human Rights Watch - Submission on the combined initial and second periodic report of Afghanistan to the United Nations Committee on the Elimination of Discrimination against Women (2013)
Available at:
http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCEDAW%2fNGO%2fAFG%2f13701&Lang=en

[3] Concluding Observations on Afghanistan, CEDAW Session 55 (30 July 2013), at 7, available at
http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fAFG%2fCO%2f1-2&Lang=en

4 See, e.g., United Nations Human Rights Council, report of the Special Rapporteur on the independence of judges and lawyers - Mission to the Democratic Republic of the Congo (2008) (A/HRC/8/4/Add.2) at 16, available at
http://www.ohchr.org/en/countries/AfricaRegion/Pages/CDIndex.aspx ;United States Department of State, 2012 Human Rights Report - DRC at 28, available at http://www.state.gov/documents/organization/204319.pdf ;Report Submitted By The UN Special Rapporteur on Violence Against Women, Its Causes And Consequences, Takin Ertürk, On Her Mission To The Democratic Republic Of The Congo (2009) at 17, available at
http://www2.ohchr.org/english/bodies/chr/special/sp_reportshrc_7th.htm

5 FAMILY CODE ART. 467

6 Report on violence against women in North and South Kivu, in the DRC, Alternative report for the UN Committee on the elimination of all forms of discrimination against women (CEDAW), Submitted by the World Organization against Torture (OMCT) and Women's Synergy for Victims of Sexual Violence (SFVS) (2013) at 2, available at
http://www.omct.org/files/2013/07/22310/cedaw_report_drc_final_eng.pdf

7 See "Judicial statistics show 90 percent of those convicted for fornication are female,", Minivan News, October 1, 2012, http://minivannews.com/politics/judicial-statistics-show-90-percent-of-those-convicted-for-fornication-are-female-44605

8 See Hope for Women, Maldives NGO Shadow Report to CEDAW (2012), at para. 287, figures 15, 16, 17, available at http://www2.ohchr.org/english/bodies/cedaw/docs/ngos/HopeForWomen_MaldivesForPSWG.pdf and United States Department of

Men, however, can "deny the charges and escape punishment because of the difficulty of proving fornication or adultery under Islamic law. The higher conviction rate for women allegedly [is] due to gender-insensitive judges and the courts' dismissal of forensic evidence."[9] In at least one case, an underage victim of sexual abuse was prosecuted for fornication even though the man with whom she had sex was convicted of sexual assault on a minor.[10]

The punishment for fornication in Nigeria is 100 lashes for an unmarried woman or death by stoning for a married woman.[11] In 12 Nigerian states, women who bring rape allegations can be prosecuted for fornication or adultery if the court hearing the case holds that the sex took place, but was consensual.[12] Women then can be criminally punished if they bring rape complaints and do not affirmatively prove that the sex was non-consensual. Women can also be found guilty of making "false accusations" if they bring rape complaints that do not result in conviction. For instance, if a court holds that no sex took place, the woman who brought the complaint could be found guilty. If convicted, she faces a sentence of 80 lashes.[13] There are many documented cases of women being subjected to these penalties.[14] Some women have even been found guilty of making "false accusations" without having their cases meaningfully heard.[15]

Discriminatory laws are also present in Indonesia, particularly in the province of Aceh. Laws there "restrict women's rights in the conduct of their daily life, including in social and public life; impose dress codes; restrict freedom of movement; and severely penalize alleged immoral relationships."[16] "...The policy on attire has resulted in various acts of violence including forced haircuts, the dousing of victims with paint, the cutting of trousers and verbal as well as physical sexual harassment. Currently there are even regional leaders who prohibit women from wearing trousers while accessing public facilities....Apart from lashings, [there are] also recorded cases of forced nudity, situations where the victims were forced to parade around, situations where the victims were bathed in sewage and forced marriage of couples accused of committing khalwat (lewdnes) and zina (extra-marital sex)."[17]

It has also been reported that several provisions of Yemen's Penal Code discriminate against women. Articles 273 and 275 criminalize acts of "public indecency". Women are systematically prosecuted under this particular law.[18] "Article 273 of the penal code criminalizes 'shameful' or 'immoral' acts, loosely defined as 'any act that violates public discipline or public decency,' including nudity or exposing oneself. Violations are punishable by fines of up to 1,000 riyals or as much as one year in prison. The terms 'public discipline' and 'public decency' are left to the interpretation of

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State, Human Rights Reports 2012: Maldives [hereinafter "US Human Rights Report on Maldives"] at 5, available at http://www.state.gov/documents/organization/204616.pdf

9 US Human Rights Report on Maldives at 18

10 "Girl, 16, sentenced to 100 lashes for having sex with an older man in the Maldives," The Daily Mail, Updated September 3, 2012, http://www.dailymail.co.uk/news/article-2197732/Girl-16-sentenced-100-lashes-having-sex-older-man-Maldives.html and "HRCM to discuss case of minor sentenced to 100 lashes for fornication," Minivan News, September 4, 2012, http://minivannews.com/society/hrcm-to-discuss-case-of-minor-sentenced-to-100-lashes-for-fornication-43366

11 Because state-level Sharia codes are not readily available, this report references the Harmonised Sharia Penal Code compiled by the Centre for Islamic Legal Studies of Ahmadu Bellow University located in Zaria, Nigeria. Harmonised Sharia Penal Code §125, available at http://www.sharia-in-africa.net/media/publications/sharia-implementation-in-northern-nigeria/vol_4_4_chapter_4_part_III.pdf See also United States Department of State, Human Rights Reports 2013: Nigeria at 5, available at http://www.state.gov/documents/organization/220358.pdf

12 Id. at §126

13 Id. at §138 and §139

14 See, e.g. Sharia Law, The Guardian, Aug. 20 2002, available at http://www.theguardian.com/world/2002/aug/20/qanda.islam It is worth noting that at least two women who were sentenced to death were able to successfully appeal their cases (See, e.g., Sharia Stoning Sentence for Nigerian Woman, Human Rights Watch, Aug. 21, 2002 http://www.hrw.org/news/2002/08/20/sharia-stoning-sentence-nigerian-woman, and Nigerian woman fights stoning, BBC News, July 8, 2002, http://news.bbc.co.uk/2/hi/africa/2116540.stm)

15 Sharia's Rise in Nigeria Incited Stoning Sentences, Women's eNews, August 25 2013, available at http://womensenews.org/story/books/130824/sharias-rise-in-nigeria-incited-stoning-sentences, "Political Shari'a"? Human Rights and Islamic Law in Northern Nigeria, Human Rights Watch (2004), at 59 available at http://www.hrw.org/reports/2004/nigeria0904/nigeria0904.pdf

16 Concluding observations on Indonesia, CEDAW Session 52 (7 August 2012), pg. 4 http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fIDN%2fCO%2f6-7&Lang=en

17 Indonesia National Commission on Violence against Women (Komnas Perempuan), National Human Rights Institution Independent Report Regarding the Implementation of CEDAW in Indonesia, 2007-2011at Para. 53, Available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCEDAW%2fNGO%2fIDN%2f52%2f9020&Lang=en

18 Concluding Observations on Yemen, CEDAW 41st Session (9 July 2008), pg. 4 http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fYEM%2fCO%2f6&Lang=en

police officers and judges, subject to each region's customs and traditions. Consequently, some women have been detained simply for being alone with men who are not their relatives. Poor women or those who are members of marginalized groups, such as the Akhdam or Somali and Ethiopian refugees, are more likely to be detained or arbitrarily arrested on such grounds."[19]

Pakistan's criminal code similarly discriminates against women, by according their testimony only half the weight of a man's.[20]

3. Recommendations

Many states have yet to implement the legislative and administrative reforms necessary to meet their obligations under CEDAW and other international human rights norms. In these states, the discriminatory laws and practices in question severely deter women's empowerment, women's human rights, and women's access to justice. Such laws and practices significantly contribute to the embedded culture of impunity surrounding violence against women.

Human Rights Now (HRN) urges all states to seriously review and repeal all discriminative laws and practices causing legal and de facto sanction against women and girl. The international community should play an active role and take concrete steps to repeal all discriminative laws and practices against women and girl. HRN calls on both the Working Group on the issue of discrimination against women in law and in practice and the Special Rapporteur on violence against women, its causes and consequences to investigate these states' discrimination against women. Additionally, we urge the Human Rights Council and General Assembly to pass resolutions to address this particular matter.

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19 Manea, Elham. "Yemen." Ed. Sanja Kelly and Julia Breslin. Women's Rights in the Middle East and North Africa: Progress amid Resistance. New York: Freedom House, 2010. Page 5 of the "Yemen" chapter. Available at: http://www.freedomhouse.org/sites/default/files/inline_images/Yemen.pdf See also "Women of Yemen - the taboo of sexual harassment" THE YEMEN POST 27 February 2013 available at: http://yemenpost.net/Detail123456789.aspx?ID=3&SubID=6615&MainCat=5

20 To Be a Woman in Pakistan, THE EXPRESS TRIBUNE WITH THE INTERNATIONAL NEW YORK TIMES, November 26, 2012, http://tribune.com.pk/story/471197/to-be-a-woman-in-pakistan/, Legal empowerment of Women in Pakistan, SACHET PAKISTAN available at http://www.sachet.org.pk/web/page.asp?id=632

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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the International Humanist and Ethical Union, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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Please recycle

The right to freedom of expression includes the right to question belief

Article 19 of the International Covenant on Civil and Political Rights (ICCPR), guarantees that everyone shall have the right to freedom of expression[1]. Analogous guarantees of the right can be found in a number of international conventions including the Universal Declaration of Human Rights[2] and the African Charter on Human and Peoples' Rights[3].

Not only is freedom of expression a fundamental right enshrined in law, but it is a fundamental value underpinning civilised and free society. It is a value that ensures the personal autonomy of the individual to express her views, and treats people as agents who can be trusted to debate, question, and together strive for progress. Freedom of expression is not only important for individual dignity but also integral to participation, accountability and democracy.

Despite that when taken together, consecutive articles 18 and 19 indisputably protect the right to free expression of "thought, conscience and religion", a key area in which there are consistent denials of freedom of expression is expression of religion or belief. These denials are frequently manifested as blasphemy laws or legislation against the 'defamation of religions'. Such laws tend to rely upon an abusive invocation of public morality with specific regard to religion, using the subjective and mutable notion of 'offense' to curtail free expression. Imbuing religious belief with a particular sensitivity to being offended, the weapon of taking offense effectively acts to shut down free speech, partly because it is difficult to challenge a response that is so subjective by nature.

Laws against so-called blasphemy are promoted and entrenched in many countries across the world[4], as well as within the international institutional arena[5], and have become an increasingly common way for governments to silence debate; not only debate about religion *per se* but to silence dissenting views on politics[6], calls for individual freedoms[7], or to provoke hatred against minorities[8].

Whilst traditional defamation laws punish false statements of fact that harm individual persons, by contrast blasphemy and defamation of religion laws have sought to punish the peaceful criticism of ideas. What is notable and deeply troubling about criminalizing blasphemy is that not only does it contravene the right of every individual to express herself freely, but also her right to freedom of religion or belief. The concept of 'defamation of religions' is fundamentally inconsistent with universal principles outlined in articles 19 of the ICCPR, which affirms the protection of the rights of individuals, not ideas[9]. Respect for individuals and respect for beliefs should not be confused: to enforce the latter by shielding beliefs is to deny the former for every person.

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[1] http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx
[2] http://www.un.org/en/documents/udhr/
[3] http://www.achpr.org/files/instruments/achpr/banjul_charter.pdf
[4] There are 55 countries with blasphemy laws, or other laws forbidding criticism or "insult " to religion. In 39 of those countries with blasphemy laws, the law mandates a prison sentence for blasphemers, and in three people can be executed for it.
[5] In the past, resolutions on "Combating Defamation of Religions" were adopted, in a variety of versions, by the UN Commission on Human Rights in 2002, 2003, 2004, and 2005 and by the UN Human Rights Council in 2006, 2007, 2008 and 2009. Similar resolutions were adopted by the UN General Assembly in 2005, 2007 and 2008.
[6] http://iheu.org/prominent-atheist-blogger-remains-danger-pending-blasphemy-trial-bangladesh/
[7] http://iheu.org/iheu-protests-gratuitous-violent-sentence-handed-to-saudi-liberal-activist/
[8] http://iheu.org/pakistan-time-has-come-politicians-police-and-clerics-must-confront-blasphemy-mobs-unison-and/
[9] This is supported by the UN Special Rapporteur on Freedom of Opinion and Expression, amongst others: http://www.oas.org/en/iachr/expression/showarticle.asp?artID=735&lID=1

Article 19.3 states that the right to free expression can only be restricted when seen as necessary for the "respect of the rights or reputations of others" and for the "protection of national security or of public order, or of public health or morals". Restrictions on grounds not specified within the article are prohibited[10]; 'defamation of religions' is not among the specified grounds allowing restrictions on the freedom of speech.

The Rabat Plan of Action recommends that all blasphemy laws be repealed given the stifling impact of such laws on the enjoyment of freedom of belief[11], as has the UN Special Rapporteur on freedom of religion or belief[12].

In parallel with this refutation of defamation of religions as a legitimate issue within the human rights framework, it is important to note that existing international legal instruments already address discrimination, personal defamation, and incitement in ways that are more carefully focused to confront those specific problems without unduly threatening the rights of freedom of expression and freedom of thought, conscience and religion.

Despite recent consensus at the international level that the concept of 'defamation of religions' does not accord with international standards, and that blasphemy laws should be repealed, just in the past year, we have seen many people arrested and imprisoned for blasphemy or insulting religion. Cases include:

- In June 2013, an Egyptian writer, Karam Saber, was sentenced to 5 years in prison on the grounds of religious defamation because some said his book (*Ayn Allah /Where is God?*) was an invitation to blasphemy and atheism, an incitement to polytheism, an offense of the divine, and a defamation of religion[13]. His sentencing was upheld earlier this year[14].

- In 2013, four atheist Bangladeshi bloggers were arrested and charged with defaming Islam under the country's penal code[15]. The government published a full list of 84 individuals, all of whom face immense personal danger in their home country.

- In January 2014, Mauritanian blogger, Cheikh Ould Mohamed M'Kheitir, was arrested for publishing an article seen by some as lacking respect for the prophet Muhammad and an act of apostasy. The latter is punishable by death, according to Article 306 of the Mauritanian penal code.[16]

- In the same month, in Pakistan a Briton was sentenced to death on the grounds of blasphemy[17].

- After being released from jail in March 2014, where he had been serving time for posting caricatures of the Muslim Prophet Mohammad, Jabeur Mejri, an atheist activist was sent back to prison this month[18].

- Also this month, Raif Badawi, Saudi Arabian co-founder of a liberal website, was sentenced to 10 years in prison,

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[10] See Human Rights Committee, Communication No 1022/2001, Velichkin v Belarus, CCPR/C/85/D/1022/2011, Views adopted on 20 October 2005.

[11] http://www.ohchr.org/Documents/Issues/Opinion/SeminarRabat/Rabat_draft_outcome.pdf

[12] A/HRC/25/58.

[13] http://www.sampsoniaway.org/fearless-ink/2013/10/07/defamation-of-religions-is-haunting-egypt's-writers/

[14] http://allafrica.com/stories/201403121535.html

[15] http://www.rawstory.com/rs/2013/03/27/bangladesh-widens-crackdown-on-blasphemous-atheist-bloggers/

[16] http://www.state.gov/documents/organization/192947.pdf

[17] http://www.telegraph.co.uk/news/worldnews/asia/pakistan/10595398/British-schizophrenic-sentenced-to-death-for-blasphemy-in-Pakistan.html

[18] http://english.alarabiya.net/en/News/middle-east/2014/05/21/Tunisian-jailed-after-pardon-for-blasphemous-cartoons-.html

1,000 lashes and a fine of 1 million Saudi riyals in connection with an online forum for public debate he set up and accusations that he insulted Islam. Badawi, was first jailed for seven years in 2012 for violating Saudi Arabia's IT law and insulting religious authorities through his online writings and hosting those of others on his website[19].

Against all international standards and understandings of basic human rights and dignity, these individuals have been arrested or imprisoned for merely expressing their views or questioning religious doctrine. The cases are not unique; they are just a few out of countless cases across the world. Relying on notions of offense or insult when it comes to silencing criticism of ideas not only runs counter to the international guarantee of the right to freedom of expression and opinion, but it forgets that respect comes in the form of treating other people's views as those of autonomous agents and worthy of consideration and questioning. People have no right not to be offended. Freedom of expression is vital for cohesion and progress of thought in society and constitutes the underpinning of any society which values equality, human dignity and progress.

Accordingly, we urge the UNHRC to:

- Ensure signatories of the ICCPR fulfill their obligations with regard to article 19 of that convention. Where states are not signatories or where they have reservations to articles 18 or 19, they should be encouraged by all possible means to sign the convention and withdraw reservations. With reference to the case studies above, we note that Saudi Arabia is not a signatory of the ICCPR. Saudi Arabia is a newly elected member of the HRC.

- Call on all states to take active steps to prevent violence against journalists, writers and other media actors, with particular attention paid to those seeking to question or criticise religious or non-religious belief, practices or authorities.

- Pressure states to publicly condemn, and more urgently, investigate violence against those exercising their free expression. In order to ensure the follow-up on cases of violence and promote the fight against impunity, the UNHRC might encourage international trial observation.

- Successfully oversee the universal implementation of the UNGA Resolution on "The safety of journalists and the issue of impunity"[20] and the UN Plan of Action on the same subject[21].

- Encourage better protection of journalists through exchange of good practices between states, government officials, law enforcement officers, and members of the judiciary. Awareness raising, capacity building and security enhancement should be facilitated by learning from the experiences of those in media.

- Vote against any resolutions on the "defamation of religions", for they necessarily infringe article 18 and 19 rights for everybody

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[19] http://www.amnesty.org/en/news/thousand-lashes-and-10-years-prison-online-saudi-arabian-activist-2014-05-07

[20] A/RES/68/163.

[21] See "Implementation Strategy 2013/2014, UN Plan on the safety of journalists and the issue of impunity"

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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Joint written statement* submitted by the Europe-Third World Centre (CETIM), a non-governmental organization in General consultative status, and International Association of Democratic Lawyers (IADL), a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[26 May 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Please recycle

Mining and Human Rights Violations in Colombia: The Case of Anglo Gold Ashanti vs the Afro-descendant community of La Toma (Cauca)[1]

The Context of Mining Policy in Colombia

In 2001, Colombia adopted a new mining code. When drafting this code, the government was directly advised by a law firm representing half of the business enterprises listed on the national mining register and by Canadian companies with substantial interests in the territory. (Currently, 43.41% of the mining companies working in Colombia are Canadian.) This law opened the door to the intensification of exploration and mining operations by declaring the mining industry to be an "activity of public utility and of social interest" and thus allowing the unilateral expropriation of lands where the presence of mineral ore is suspected to be.

On the recommendation of the World Bank, the Mining Code eliminated the possibility that the state had had until then of participating directly in mining operations, leaving the state to play only a regulatory and control role. The state's primary mission was declared to be to "stimulate efficiently and convincingly private investment".[2] The Mining Code has also led to the privatization of mining operations. The economic revenues for the state are reduced to those derived from surface rights and royalties the companies must pay during the exploration and operations phases, respectively.

Colombia currently is experiencing a veritable mining boom. During the governments of César Gaviria, Ernesto Samper and Andrés Pastrana (1990-2002), 1,889 mining concessions were granted for 165,000 hectares, whereas during the eight years of the government of Alvaro Uribe (2002-2010), 7'869 mining concessions were granted for 4,283,000 hectares![3]

In 2005, within the framework of the government's "Vision 2019" policy, it was specified: "In 2019, the Colombian mining industry will be one of the biggest in Latin America and will have significantly increased its participation in the national economy."[4] The mining industry is presented as THE strategic economic wager. The proposed objective is that, as 2019 approaches, Colombia find itself among the three leading Latin American countries with the highest direct foreign investment (DFI) in the mining sector. Moreover, "Vision 2019" establishes, as pointed out above, that only private initiative can stimulate and intensify this development. All this has attracted many private business enterprises to Colombia, such as Barrick Gold or Anglo Gold Ashanti.

President Juan Manuel Santos, in power since 2010, has reaffirmed, consolidated and continued what his predecessor, Alvaro Uribe, began: the opening of huge swathes of national territory to mining operations. Concessions have been granted for 8.4 million hectares,[5] to wit 13% of the national territory of 114 millions hectares.

In June 2012, the government created "Strategic Mining Reserve Regions", a mechanism through with a total of 25'188'759 hectares are defined as set aside exclusively for mining operations, which represents a dramatic change in land use since most of these zones are agricultural land and a significant portion is located in the Amazon forest.

The mining boom in Colombia coincides with an increase of human rights violations. The Colombian government is obviously not playing its control and regulatory role in this sector, and it is also failing in its duty to protect human rights, to prevent violations and, when appropriate, to sanction them. Yet the National Inspectorate General, referring to a report by the energy mining trade union, notes in this regard that "80% of the human rights violations in Colombia take place in petroleum-mining municipalities; 87% of forced displacements come from these municipalities; and 78%

[1] This declaration has been drafted in collaboration with SEMBRAR-Colombia.
[2] National Mining Development Plan 2019.
[3] Figures from the National Planning Council.
[4] National Mining Development Plan 2019.
[5] Guillermo Rudas, Minería y Ambiente, presentation at INDEPAZ, September 2010.

of the crimes against indigenous peoples as well as 90% of the crimes against Afro-descendants are committed in the mining-energy regions".[6]

Anglo Gold Ashanti's Activities in Colombia

Anglo Gold Ashanti is a transnational corporation whose headquarters are in South Africa but a majority of whose investors are from the United States. It became known in Colombia in 2007, with the announcement of the discovery of the La Colosa mine in the Department of Tolima (center of the country). But previously, the corporation was already operating in Colombia through a subsidiary based in the British Virgin Islands, named Société Kedhahsa S.A. Currently, Anglo Gold Ashanti lays claim to millions of hectares of concessions for carrying out exploration and mining operations.

Several investigations carried out in Colombia have shown that in the 336 municipalities in which the transnational Anglo Gold Ashanti was active through it subsidiary Kedhahsa, paramilitary groups had directly and systematically attacked the civilian population, through actions such as extrajudicial executions, torture, disappearances and forced relocations.[7] 70% of the municipalities in which this transnational was active, or claimed to be pursuing exploration work and mining operations, are regions where the paramilitaries have a strong presence, with well known consequences for human rights.[8] According to CINEP data, 5,438 persons were victims of crimes against humanity during the period 1988-2006 in the regions where Anglo Gold Ashanti was active in Colombia.[9]

Since 2003, there has also been a systematic and generalized process of human rights violations committed by the members of the police forces and the military, notably cases of extrajudicial executions, arbitrary detention, indiscriminate bombings, illegal searches and threats to community leaders devoted to artisanal mining activities, in areas where Anglo Gold Ashanti holds concessions.[10]

Human Rights Violations of the Afro-descendant community at La Toma (Cauca)

The La Toma district (7'000 hectares situated in the department of Cauca in the southwest of the country) was recognized by the Constitutional Court (Judgment T 1045a, 14 December 2010) as an ancestral territory of the Afro-descendant community. In this territory, gold mining operations have been carried on at an artisanal level since the arrival of slaves, to wit since about 1636. The ancestral and artisanal mining activities currently provide a source of economic subsistence to some 1,300 families, about 5,200 persons, living in the La Toma district.

But this community is now in danger of being dispossessed of its ancestral territory because of the concessions granted to Anglo Gold Ashanti as well as to other corporations engaged in large-scale mining operations. These concessions were granted without observing the preliminary consultation process established in the International Labor Organization's Convention 169, which Colombia has ratified.

Since October 2009, Anglo Gold Ashanti has held two mining concessions for exploration and mining of gold in the La Toma territory,, representing a total of 349,77 hectares, each granted for 30 years. Further, Anglo Gold Ashanti has filed seven other requests for concessions for mining operations largely implicating the Afro-descendant community' territory in La Toma.

Since the granting of the mining concession, there has been a marked increase in killings, threats and human rights violations against the Afro-descendant community practicing ancestral and artisanal mining. Paramilitary groups have

[6] National Inspectorate General, Report "Minería en Colombia, Fundamentos para superar el modelo extractivista", junio del 2013

[7] Human Rights and Politic Violence Data Bank, Centro de Investigación y Educación Popular (CINEP), 2008

[8] Ibid.

[9] Ibid.

[10] DH Red de Defensores No Institucionalizados, Public complaint, April 2007

appeared and are trying to force the community to leave in order to yield the land to the transnational mining corporations.

On 7 April 2010, six persons,[11] members of the Afro-descendant community practicing artisanal and ancestral mining, were killed in the village of Hato Santa Marta (La Toma district). On 22 July 2010, Alex González, another miner of the same community, known for his opposition to large-scale mining operations, was killed. In 2011, threats by paramilitary groups continued. In March 2013, armed paramilitary groups entered the community, set up road blocks and threatened the inhabitants. On 30 May of the same year, paramilitary groups killed four more persons[12] practicing artisanal mining in the La Toma district. Since then, the threats to and intimidation of the members of the community have continued.

The government is complicit in this situation, for it not only does not take any measures to protect the Afro-descendant community of La Toma from the human rights violations of which they are victims, but it also participates in the repression of this community through various administrative measures. Thus, in 2009, the National Mining Agency ordered the expulsion of the Afro-descendant community groups carrying on artisanal mining and requested the opening of a criminal investigation on the members of the community for alleged offenses related to illegal mining and violation of private property.

However, in 2010, the Constitutional Court (Judgment T1045a) recognized that these mining concessions granted to the transnational corporations in the territory belonging the Afro-descendant community had been granted in violation of the requirement of prior consultation,[13] and it ordered that these concessions and titles be suspended.[14]

The ruling of the Court declared that "the violation of the right to consultation regarding natural resource development projects led also the violation of other rights of the affected people, such as autonomy and cultural and social integrity, and even to their right to property". Similarly, the Court declared itself dismayed by the increase in environmental damage caused by the mining operations, in particular the impacts on water sources, pollution, deforestation and the increase in environmental imbalance.

Another important aspect of the Court's ruling refers to the protection of the Afro-descendant community' cultural integrity and to their traditional practices of production. The Court thus clarified that the only mining operations that could be carried out on this territory are the traditional ones practiced by the Afro-descendant community. In this regard, the Court established "the illegal character of all types of extractive mining activities outside the traditional or ancestral mining practices that the Afro-descendant community carry on daily for their subsistence".

However, the Colombian government has not implemented the Constitutional Court's ruling. Worse, in April 2013, the National Mining Agency ordered the suspension of the ancestral mining activities, arguing that this move was in conformity with the Constitutional Court's ruling.

Thus, the government, and in particular, the National Mining Agency, recognize neither the spirit nor the letter of the Court's ruling that establishes, among other things, the guarantee of the right to cultural integrity, which in this case means the continuation of traditional practices of artisanal mining. This position directly threatens the continued subsistence of the Afro-descendant community. It contributes to reinforcing a climate of repression and intimidation against this community. The risk is great, today more than ever, of seeing this community forcefully displaced and

[11] Yiber Ocoró, José Arnobio Mosquera, Wilfer Fernando Mosquera, Pablo Eleazar Ibargüen Mosquera, Henry Ibargüen Mosquera y Macedonio Ibarguen Mosquera

[12] Joran Muñoz, Leyder Andrés Anacona, Cicerón Ortiz and Edier Humberto Cerón Ortiz

[13] The Court decided that the Afro-descendant community of La Toma had to be consulted regarding the effects of mining activities in its territory, but nothing has happened so far.

[14] Existing concessions have indeed been suspended or revoked, and no new concessions have been granted since then, but illegal mining activities with heavy machinery continue, with the government being aware of the situation but imposing no sanctions.

dispossessed of its territory to allow access to the transnational corporations of the mining sector, with Anglo Gold Ashanti in the lead.

Conclusion

In conclusion, since the granting of the mining concessions to Anglo Gold Ashanti and other transnational corporations, the Afro-descendant community practicing artisanal mining on its ancestral territory in the district of La Toma (Cauca) is victim of repeated human rights violations, in particular the right to life, the right to participate in the making of decisions and the right to prior, free and informed consultation. Economic, social and cultural rights, especially the right to land and to territory, the right to work, the right to water, the right to food and the right to live in healthy environment are threatened. This community is also threatened with forced displacement and with being deprived of its means of subsistence.

In view of the above, the CETIM and IADL exhort the Colombian government to respect its international commitments, in particular the two international human rights covenants, the United Nations Declaration on the Rights of Indigenous Peoples and ILO Convention 169. It requests the Colombian government to take all possible measures to protect the rights and guarantee the security of the Afro-descendant community of the district of La Toma (Cauca).

The CETIM and IADL also request the Colombian government to assure full implementation of the Constitutional Court's ruling (T 1045 A of 2010), and, in particular, to guarantee the continuation of ancestral mining activities and to cancel the suspension of these activities, as well as assuring the respect and implementation of the decision made by the community within the framework of consultation process ordered by the Court.

The CETIM and IADL request the Special Rapporteurs on the Rights of Indigenous Peoples and on Extrajudicial, Summary and Arbitrary Executions as well as the Working Groups of Experts on Persons of African Descent, to be seized of the matter and carry out missions in the field in Colombia.

The CETIM and IADL call upon the Human Rights Council to intervene with the Colombian government to assure the implementation of its international commitments and to continue to follow carefully the evolution of the human rights situation in this country.

The CETIM and IADL, further, request the governments of the United States and of South Africa to assure that Anglo Gold Ashanti respects the human rights of the Afro-descendant communities in the framework of its mining activities in Colombia and that investigations be carried out regarding human rights violations in Colombia, and, if appropriate, that the perpetrators be sanctioned, in conformity with their obligation to prevent human rights violations committed abroad by third parties under their jurisdiction.

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Written statement* submitted by the International Humanist and Ethical Union, a non-governmental organization in special consultative status

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Please recycle

Female genital mutilation and the impermissibility of custom, tradition or religion as a means of defence

Three million girls are at risk of undergoing the procedure of female genital mutilation/cutting (FGM) every year[1]. FGM ranges from cutting off a girl's clitoris to cutting off all of her external genitalia and sealing the two sides, through stitching or natural fusion of scar tissue[2]. There are 140 million girls and women living with its consequences, which can include infections, complications in pregnancy and childbirth, psychological damage, and sexual dysfunction[3]. Countless girls have died as a direct result of infection following FGM, and many more as a result of later problems in pregnancy and childbirth. Whilst reported to occur in many areas of the world, FGM is most prevalent in the western, eastern, and north-eastern regions of Africa, and has also been reported in parts of the Middle East, Asia and within some immigrant communities in Europe and North America[4]. Communities that practice FGM report a variety of social and religious reasons for continuing with it.

The practice of FGM constitutes an extreme manifestation of discrimination against women; it is deeply rooted in inequality and should be perceived as a reflection of severe power imbalance. Entrenched in social, cultural and political structures, it perpetuates unequal normative gender roles that harm women[5]. As the World Health Organisation (WHO) and other international agencies have noted, FGM "deprives girls and women from making an independent decision about an intervention that has a lasting effect on their bodies and infringes on their autonomy and control over their lives"[6].

Turning upon the idea of the sexual control of women, there are understood to be a collection of interrelated reasons behind the practice of FGM. It is thought to restrain a woman's libido and prevent sexual behaviour that is considered deviant and immoral[7]. A girl's marriageability is key, with FGM deemed as representing the necessary characteristics required for a woman to become a "proper" wife[8]. The practice is seen as central to preserving a girl's honour and as a desirable proof of virginity, cleanliness and femininity, with removal of genitalia, such as the clitoris, understood to eliminate 'masculine' parts[9].

In certain communities, where mutilation is carried out as part of the initiation into adulthood, FGM defines who belongs to the community. In such communities, a girl cannot be considered an adult unless she has undergone FGM.

In many cases, it is a social convention and proves difficult for families to discontinue without support from the wider community. In places where there is a prevalence of FGM, anyone seeking to depart from the norm may face harassment, ostracism and condemnation. Often, the perceived social benefits of the procedure are viewed as trumping the infliction of harm upon girls[10]. Social acceptance of FGM, coupled with the lack of effective mechanisms to enforce

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[1] WHO, *Eliminating Female genital mutilation: An interagency statement* (OHCHR, UNAIDS, UNDP, UNECA, UNESCO, UNFPA, UNHCR, UNICEF, UNIFEM, WHO), 2008.

[2] UN OHCHR, *Fact Sheet No. 23, Harmful Traditional Practices Affecting the Health of Women and Children*, August 1995.

[3] WHO, *Female genital mutilation, Fact sheet No. 241*, Updated February 2014.
http://www.who.int/mediacentre/factsheets/fs241/en/

[4] UNICEF, *Female Genital Mutilation/Cutting*, 2009.

[5] WHO, 2008.

[6] Ibid.

[7] http://www.african-women.org/documents/behind-FGM-tradition.pdf

[8] WHO, 2008.

[9] Ibid.

[10] UNICEF, *Female genital mutilation/female genital cutting: a statistical report*, New York, 2005.

the existing prohibitions, have made the practice difficult to combat[11].

FGM is often upheld by a number of social forces with authority, such as traditional or religious leaders, elders, circumcisers and even some medical personnel[12]. Although the practice pre-dates Christianity and Islam, in some communities FGM has been upheld by beliefs associated with religion, and has acquired a religious dimension that is frequently cited as the reason for its use[13].

Many religious leaders support the practice tending to either consider it a religious act, or regarding efforts to eliminate the practice as constituting a threat to the preservation of culture and religion[14]. Other religious leaders have contributed to efforts to eliminate the practice. In November 2006, a conference held at Al-Azhar University, under the patronage of Sheikh Ali Goma'a, declared FGM as "punishable aggression" and "a crime against humanity"[15].

It should be noted that social and cultural claims cannot be invoked to justify FGM; as we know, freedom to manifest one's religion or beliefs is subject to limitations necessary to protect the fundamental rights and freedoms of others[16]. To be clear, FGM undermines the full and equal enjoyment of human rights by those women and girls forcibly subjected to it. When FGM is performed on minors, which is almost always the case, it constitutes a violation of the rights of the child, specifically the child's right to "enjoyment of the highest attainable standard of health", as laid down in article 24 of the Convention on the Rights of the Child[17]. The practice also violates the rights to health, security and physical integrity of the person. The UN Committee on torture has noted that FGM, "its form and cruelty amounts to torture and cruel, inhuman or degrading treatment or punishment as set forth in article 1 and 16 of the CAT"[18].

The African Union's Solemn Declaration on Gender Equality in Africa, and its Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa constitute a major contribution to the promotion of gender equality and the elimination of FGM. The negative implications of the practice in terms of human rights and public health have been recognised by a number of international organisations, such as the WHO, the United Nations Children's Fund and the United Nations Population Fund[19].

The UN's General Assembly resolution intensifying global efforts for the elimination of FGM in December 2012[20] was encouraging, but much more needs to be done. Whilst decades of preventative work, undertaken by local communities, national and international organizations and governments, has contributed to a reduction in the prevalence of FGM, progress has been slow and it is still prevalent in many areas across the world. Therefore, the UN Human Rights Council (UNHRC) needs to play a larger and more proactive role in the attempt to combat it. For instance,

– Where relevant, the UNHRC should encourage states to ratify, as a matter of priority, those international conventions pertaining to the rights undermined by the practice of FGM.

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[11] http://www.endfgm.eu/en/news-and-events/news/press-releases/legislation-against-fgm-not-sufficient-says-un-special-rapporteur-on-torture-0053/

[12] WHO, 2008.

[13] http://www.endfgm.eu/en/female-genital-mutilation/what-is-fgm/why-is-it-practised/

[14] See: WHO, 2008; http://www.endfgm.eu/en/female-genital-mutilation/what-is-fgm/why-is-it-practised/

[15] http://iheu.org/female-genital-mutilation/

[16] ICCPR, article 18.3; UNESCO, 2001, "UNESCO Universal Declaration on Cultural Diversity", article 4.

[17] http://www.ohchr.org/en/professionalinterest/pages/crc.aspx

[18] http://www.endfgm.eu/en/news-and-events/news/press-releases/legislation-against-fgm-not-sufficient-says-un-special-rapporteur-on-torture-0053/

[19] WHO, 2008.

[20] A/C.3/67/L.21/Rev.1*.

- It should remind states of their obligations to exercise due diligence to prevent, investigate and punish acts of violence against women, including FGM. States should ensure that those who have suffered torture or other cruel, inhuman or degrading treatment are granted compensation and any necessary rehabilitation services.

- As shown above, the factors involved in perpetuating FGM are complex and often grounded in social, cultural and traditional conventions supported and promoted by local communities. Accordingly, legal prohibition of FGM on its own will be insufficient. State laws and international regulations against the practice need to be complemented by education and public awareness-raising activities. Where this has happened, the practice has declined[21].

- Information campaigns must be implemented in order to educate and mobilize public opinion against FGM. In many European and North American states, lack of knowledge directly translates into an inability to combat FGM. Health and education practitioners, law enforcement agencies and the judiciary should be informed about the negative implications of FGM on the health, well-being and human rights of women and girls.

- Health and education practitioners should be bound to report cases they suspect or find evidence of FGM.

- More should be done at the international level to encourage exchange of information and good practices. States should collect and share data on the prevalence and trends of FGM.

- In light of the practice constituting either torture or other cruel, inhuman or degrading treatment, and given the often-transnational dimension of FGM, states should be encouraged to view the practice in the context of refugee status[22].

The difficulties for combatting FGM are immense, since the practice is deeply embedded in local culture throughout many parts of Africa and beyond. The solutions will necessarily involve a multi-targeted approach, including legal sanctions, awareness-raising and educational measures. What is clear however is that the practice forced upon girls works in diametric opposition to all understandings of human rights. It is essential to bear in mind that custom, tradition or religious considerations cannot be invoked by states to circumvent their obligations with respect to the elimination of FGM. Such considerations only act to perpetuate what is a deeply damaging and abusive practice against girls, and should never be accepted as a means of defending or promoting it.

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[21] Ibid.

[22] E.g. In the UK, see *Zainab Esther Fornah (Appellant) v. Secretary of State for the Home Departmen*, 14 June 2006. Similar approaches have been adopted in Austria, Belgium and Germany.

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Written statement* submitted by Terre Des Hommes Federation Internationale, a non-governmental organization in special consultative status

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Please recycle

Ending the immigration detention of children*

Immigration Detention of Children

The immigration detention of migrant children remains a subject of strong concern to the IDC, PICUM and TDH and represents a grave violation of children's rights. Every day, all around the world, millions of children are affected by immigration detention. Whether detained themselves or impacted by the detention of their parents or guardians, children are particularly vulnerable to abuse and neglect. States frequently detain children who are refugees, asylum seekers, and irregular migrants for a number of reasons, such as health and security screening, to verify their identities, or to facilitate their removal from the territory. Sometimes, children may be detained without the knowledge of the authorities, for example, because there is a failure to distinguish between child and adult migrants.

Impact on Child Health and Development

Regardless of the conditions in which children are held, a number of studies have shown that detention has a profound and negative impacton child health and development.[1] Even very short periods of detention can undermine child psychological and physical well-being and compromise their cognitive development. Children held in detention are at risk of suffering depression andanxiety, and frequently exhibit symptoms consistent with post-traumatic stress disorder (PTSD) such as insomnia, nightmares and bed-wetting. Feelings of hopelessness and frustration can manifest as acts of violence against themselves or others. Reports on the effects of immigration detention on children have found excess rates of suicide, suicide attempts and self-harm, mental disorder and developmental problems, including severe attachment disorder. They also found "marked differences between adults and children in the distress associated with various incidents."[2]

Impact on Family Care and Support

Sometimes children are detained due to their parents' or guardians' migration status or because states insist that it is in the best interests of the child to keep children with their parents in immigration detention. This is in conflict with a child's right to liberty, and may also contravene a child's individual right to seek asylum. When detention separates children from their parents or caregivers, it erodes the functioning of families. As a result, children often lose the support and protection of their parents, or are forced to take on roles beyond their level of maturity. For this reason, the CRC (Convention on the Rights of the Child) Committee has clarified that migrant families with children should be accommodated as a family in non-custodial, community-based contexts while their immigration status is being resolved.[3]

Immigration Detention is a Child Rights Violation

Children are first and foremost children, and entitled to their fundamental rights of liberty, security, health, education, and family life. Their best interests must always be the primary consideration of state decision-making. For this reason, the CRC Committee has made clear that children should never be criminalized or subject to punitive measures because of their or their parent's migration status [and that] 'the detention of a child because of their or their parent's migration status constitutes a child rights violation and always contravenes the principle of the best interests of the child."[4]

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[1] *See*, e.g. M Dudley and B Blick, Appendix E to *The heart of the nation's existence – a review of reports on the treatment of children in Australian detention centres*, ChilOut (2002); S Mares and J Jreidini, *Psychiatric assessment of children and families in immigration detention – clinical, administrative and ethical issues*, Australian and New Zealand Journal of Public Health 520 (2004); Human Rights and Equal Opportunity Commission, *A Last Resort? National Enquiry into Children in Detention* HREOC, (April 2004); Z Steel, S Momartin, C Bateman, A Hafshejani, D M Silove, N Everson, K Roy, M Dudley, I. Newman, B Blick, S; Z Steel, *The politics of exclusion and denial: the mental health costs of Australia's refugee policy*, p. 10 (May 2003).

[2] Z Steel, p. 8 (May 2003).

[3] Committee on the Rights of the Child Report of the 2012 Day of General Discussion, *The rights of all children in the context of international migration*, p. 19, paragraph 79.

[4] Ibid, p. 18, paragraph 78.

Alternatives to Detention

While globally the detention of children has been increasing, there has also been a recent move by some states to avoid detaining children consistent with international obligations. Governments are increasingly seeking innovative ways to prevent refugee, asylum seeker and migrant children from being detained in the first instance, or to expeditiously seek the release of children into child-sensitive alternatives to detention (ATD).

Instead of detaining children for immigration purposes, the CRC Committee has stated that 'to the greatest extent possible, and always using the least restrictive means necessary, States should adopt alternatives to detention that fulfil the best interests of the child, along with their rights to liberty and family life through legislation, policy and practices that allow children to remain with family members and/or guardians . . . in non-custodial, community-based contexts while their immigration status is being resolved.'[5]

The latest research indicates that such alternatives to detention not only better protect the rights of children in migration control processes, but can also result in significant benefits for the efficient functioning of migration management systems. Research shows that ATD, when implemented properly, are more effective, cheaper, and respect the human rights of migrants better than custodial detention.[6] ATD lead to high rates of compliance with migration-related decisions, high rates of voluntary return, and are on average more cost effective than traditional detention models. Building trust, respecting and valuing the dignity of the migrant, and providing a fair, transparent process are fundamental.

The Global Campaign to End Child Immigration Detention

There is also a global movement to help promote ending child immigration detention consistent with international law. The Global Campaign to End the Immigration Detention of Children, of which we are all supporters, is working with numerous state parties to make this a reality in the coming years. Examples of positive child and family ATD practices from around the globe, are being researched, explored and implemented by states together with child and migrant rights advocates, social workers, health and educational specialists.

Conclusion

The detention of children due to their or their parents' migration status can create lasting physical and psychological harms and constitutes a child rights violation. It is never in the best interests of a child to be detained for immigration purposes, and states should ensure that a minimum level of protection and support for child migrants is available in the community.

These developments have led us to set the goal of ending the practice of child immigration detention as a matter of priority within the next five years. This is an achievable priority and one that we hope to work toward together with willing states and with the support of our UN partners.

On 19 June from 2:00 – 4:00pm, we will be exploring this work in more detail and we invite you to attend a side meeting on "Ending the Immigration Detention of Children" to lend your voices to help ensure that children are never detained on the basis of their or their guardians' immigration status.

Recommendations

We make the following recommendations to states:

- Children should never be detained for migration purposes. States should expeditiously and completely end the immigration detention of children.
- The best interests of the child must be the primary consideration in any action taken in relation to child migrants.
- States should implement child-sensitive alternatives to detention.

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[5] Ibid, p. 19, paragraph 79.

[6] *See*, e.g. International Detention Coalition, *There Are Alternatives*, (2011) available at http://idcoalition.org/cap/.

* International Detention Coalition Platform for International Cooperation on Undocumented Migrants NGO(s) without consultative status, also share the views expressed in this statement.

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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Eastern Sudan Women Development Organization, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[26 May 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.14-04156

1404156

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Unilateral coercive measures and their impact on the citizens of Sudan

States impose unilateral coercive measures on other countries for political purposes without reference to the United Nations Organization or relevant regional organizations, which is explicit and clear transgression of international humanitarian law.

Influenced unilateral coercive measures imposed on Sudan has negative impact on the citizens and all sectors including health, education, industry, agriculture, labor and other factors that have a direct impact on the income and daily livelihood. All these factors has contributed effectively to delay the process of development in the country. In the field of education, certain types of modern technology and laboratory and lab-reagents have been banned , technical support, scholarships have been stopped . This in turn has negatively affected school feeding by 15% and the bad impact on academic achievement and persistence rate of students in school.

Also influenced unilateral coercive measures have a direct impact on human health sector. Also the pharmaceutical sector was affected by the negative impact on the international cooperation. Also services of diagnosis and treatment have negatively affected by these measures.

We are as Organization of Women Development in eastern Sudan , working in development concern specially with woman and child, raise our voice to the Human Rights Council and the international community to lift the sanctions on unilateral coercive Sudan, which has been overshadowed by the negative on human life in Sudan .

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Written statement* submitted by the World Federation of Khoja Shi'a Ithna-Asheri Muslim Communities, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[26 May 2014]

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Please recycle

The Curtailment of Freedom of Expression and Opinion in Malaysia and Pakistan

The World Federation of Khoja Shi'a Ithna-Asheri Muslim Communities (KSIMC) would like to express its concern with the rise of religious intolerance and its various manifestations across the world. We believe the freedom to practise any faith is central to the freedom of expression. As an International NGO, The World Federation of KSIMC has existed for over thirty years. We are a faith-based organization, consisting of about 150,000 community members worldwide. Alongside serving our constituent members, The World Federation of KSIMC also actively works in the areas of International Relief and Development.

The World Federation of KSIMC unequivocally supports the Universal Declaration of Human Rights and the enshrined principles within the United Nations Declarations and International Law. Article 18 of the 1996 International Covenant on Civil and Political Rights (ICCPR) states, "Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching." It is in that regard, we seek to protect those basic freedoms by bringing to light our concerns on the rise of religious intolerance. We believe the mandate of the Office of the High Commissioner for Human Rights to be pivotal in the protection of minority communities who face restrictions on their freedom of expression by states such as Malaysia, and also by non-state extremist groups in countries such as Pakistan.

As a community of only 150,000 members spread out across the world, we have often been targeted for various reasons, yet our leadership has stood tall at each trial not only enabling our community to thrive past these traumatic events in history but also enabling our fellow human beings and those most oppressed to thrive after such experiences. Our community was built around the mantra of serving humanity, and it is for this reason, Shan-E-Abbas Hassam our Secretary General said, "When religious freedom is curtailed, real people – as well as their families, communities, and countries – pay a price. Whether their names are written on gravestones or their faces stare at us from behind prison bars, we must never forget them." He went on to add, "To this day, I shed a tear when I visit Karachi and see the names of my community members etched on memorial walls and on gravestones simply because of their faith. Yet I am unable to provide an answer to the local community when they ask me when will they see peace."

While prominent academicians, thinkers, and historians have documented the impact of state-led restrictions on religious practices, the events of the last fifteen years have led researchers to examine the impact of non-state actors on religious intolerance. Research carried out by The Pew Research Centre shows that almost 5.1 Billion people reside in countries with high religious restrictions or high social hostilities. Religious restrictions explain state-led restrictions on religious groups, while social hostilities explain the actions of non-state actors or members of civil society who react violently towards religious groups. Within those countries, the majority of the hostilities are directed at minority groups.

An example of a state-led restriction on religious practise can be seen in Malaysia where Shia Muslims are regarded as a 'deviant.' The report published by the United States Department of State highlighted that the Department of Islamic Development Malaysia (JAKIM), established federal guidelines concerning what constitutes 'deviationist' behaviour or belief. With the consent of a Sharia court, the government may arrest and detain members of 'deviationist' groups for 'rehabilitation' to the 'true path of Islam'. As of 2013, eleven out of fourteen Malaysian States have adopted this piece of legislation and empowered Sharia courts within their states to consent to the arrest and detention of members of minority sects.

Over the past several years, Malaysia has expanded efforts to monitor and detain followers of banned sects, most prominently the Shi'a sect. In 2011, Minister of Islamic Affairs Jamil Khir Baharom issued a statement banning the promotion of Shi'ism and pledging government efforts to halt the spread of the Shi'a sect, including by monitoring and controlling preaching and materials. Over the past several years, local Islamic Affairs ministries expanded efforts to halt Shi'a practice. According to Minister Baharom, 16 Shi'a were detained in 2013 on charges of proselytization and local authorities carried out 120 "inspections." Since 2010, over 200 Shi'a followers have been detained, including in Kuala

Lumpur, Selangor province, and Perak province. Generally they are released on bail pending investigations. Several have been charged with spreading Shi'ism and are out on bail awaiting trial.

The World Federation of KSIMC would request all State Parties and the Special Rapporteur on Freedom of Expression and Opinion to:

- Compel the Malaysian government to sign and ratify the 1996 International Covenant on Civil and Political Rights (ICCPR)
- Urge the Malaysian government to cease the arrest of individuals involved in peaceful religious activity, such as the Shi'a, and end government efforts to police religious belief and expression.
- Press the Malaysian government to bring all laws and policies into conformity with international commitments, including on freedom of religion or belief and freedom of expression.
- Encouraging Malaysian elected leaders to address the human rights shortcomings of the parallel civil-Shari'ah justice systems to guarantee that all Malaysians, regardless of ethnicity or religion, can enjoy freedom of religion or belief in line with international standards.

In the last thirty years the rise of social hostilities against religious minorities in Pakistan is a cause of serious concern, as terrorist groups are allowed to operate with impunity in various parts of the country. Extremist groups and their links to political power in recent decades highlight the creation and development of a sectarian struggle that continues to plague Pakistan's civil society until today. Extremists have taken advantage of power vacuums resulting from failure of the central state in extending its authority across Pakistan, and embarked upon the manipulation of individual identities. The protracted conflict Pakistan finds itself in is due to the recreation of these identities by religious structures such as the Madaris, Mosques and the scholars they cultivate.

Since 2013, militants and terrorist organizations targeted Shi'a processions and mosques, as well as social gathering places, with impunity. Particularly large bombings occurred at a pool hall frequented by Shi'a in Quetta in January 2013 and on a busload of Shi'a pilgrims returning from the Islamic Republic of Iran in January 2014. Overall, advocacy organizations put the number of Shi'a killed across Pakistan during the past year at close to 700, with over 1000 wounded. The response by the Pakistani government has been grossly inadequate. Police, if present, have been unwilling to stop attackers before people are killed, and the government has not cracked down on the groups that repeatedly target Shi'a.

Violence against Christians continued. The largest attack against the Christian community in Pakistan's history occurred in September 2013, when Pakistani Taliban suicide bombers attacked the All Saints Church in Peshawar as services were ending, killing 100 individuals. In addition, two large mob attacks against Christian villages in Punjab province occurred in March and April, with over 100 homes destroyed. While the provincial government provided some reparations, few, if any, perpetrators were held to account. In addition, in August 2013, the charges brought against a prayer leader for planting blasphemy evidence against an underage, mentally-handicapped Christian girl in 2012 were dismissed. The Centre for Legal Assistance and Settlement and other groups continue to report kidnappings and forced conversions, such as in January 2014, when a 14-year-old Christian girl was abducted, forcibly converted, and forced to marry.

Pakistan and Afghanistan is home to the Hazara community, who are an ethnic group that have been victimised time and again for their religious beliefs and their ethnic origins. Perpetrators of such violence do not consider the Hazara community as equal citizens of Pakistan; therefore their suffering is far more acute as they face political, economic and social restrictions.

The World Federation of KSIMC urges the Human Rights Council, its member and observer states to support the establishment of an international Commission of Inquiry or similar mechanism to investigate the human rights violations, abuses, war crimes and other violations of international law committed in Pakistan.